16-647

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

No. ~~314.~~ 49

THE SHIP STERLING, E. & A. SEWALL ET AL., OWNERS, AND THE TOW-BOAT EQUATOR, S. & J. M. FLANNAGAN ET AL., APPELLANTS,

vs.

R. M. PETERSEN ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED OCTOBER 11, 1879.

SUPREME COURT OF THE UNITED STATES.

No. 314.

THE SHIP STERLING, E. & A. SEWALL ET AL., OWNERS, AND THE TOW-BOAT EQUATOR, S. & J. M. FLANNAGAN ET AL., APPELLANTS,

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1 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

R. M. PETERSON ET AL.
versus
THE SHIP STERLING AND TOW-BOAT EQUATOR. } No. 8155.

TRANSCRIPT FROM THE U. S. DISTRICT COURT, DISTRICT OF LOUISIANA.—FILED APRIL 2D, 1877.

District court of the United States for the district of Louisiana.

R. M. PETERSON & ALS.
vs.
SHIP STERLING AND STEAM TOW-BOAT Equator. } No. 10604. In admiralty.

Libel.—Filed March 24th, 1874.

To the Hon. E. H. Durell, judge of the district court of the United States for the district of Louisiana:

2 Richard M. Peterson, H. Blow, and Carl Lorange, of Moss, Norway, owners of the Norwegian barque Sif, hereafter mentioned, and of which said Carl Lorange is and was master, exhibit this their libel against the ship Sterling, whereof Baker is or was master, and the steam tow-boat Equator, whereof is or was master, said ship and said steam tow-boat now lying in the port of New Orleans, in the district of Louisiana aforesaid, and within the admiralty and maritime jurisdiction of this honorable court, their engines, machinery, boats, tackles, apparel, and furniture, and against all persons lawfully intervening for their interest therein, in a cause of collision, civil and maritime.

And thereupon the said R. M. Peterson, H. Blow, and Carl Lorange do allege and articulately propound as follows, to wit:

3 First. That the said barque Sif is a vessel of about eight hundred tons burthen, and at the time when the cause of action hereinbefore mentioned and set forth arose was employed in the business of commerce and navigation between the ports of New Orleans in the United States and Havre in France.

Second. That on Tuesday, the 10th March, 1874, the aforesaid barque Sif, being tight, staunch, and well manned, equipped, and provided, sailed from the port of New Orleans with a valuable cargo of cotton on a voyage to Havre, France.

Third. That on said 10th March, 1874, about 5 o'clock p. m., said barque Sif was taken in tow by the steam tow-boat Sentinel, of the port of New Orleans and was by her towed down the Mississippi River to near the mouth of the same, at Southwest Pass, and was brought to anchor in said river at a point opposite Pilot Town at 9 o'clock a. m. on 11' March, 1874, being unable to cross the bar at the mouth of said river on account of the same being blockaded at that time by a

4 German steamship aground on said bar, which could not be passed; that said barque Sif remained at her said anchorage until Sunday, 15' March, 1874, when the said steamship, whose name is unknown to libellants, succeeded in crossing said bar; whereupon, at 7

a. m., said barque Sif was taken in tow by the steam tow-boat Lone Star and proceeded towards the bar at Southwest Pass with the intention of crossing the same and going to sea; but upon arriving within a mile or thereabouts of said bar it was found that said bar had again become blockaded and impassable by an American steamship, whose name is unknown to libellants, being aground thereupon; whereupon said barque Sif was again anchored; that about 12 o'clock m. on said 15' March, 1874, said barque Sif weighed her anchor and proceeded in tow of the steam tow-boat Philip on her voyage to cross said bar,
5 in attempting which said barque Sif was aground on said bar, completely blockading the same up so that vessels of above fourteen feet draft of water could not cross the same, nor was it safe for any vessel to attempt to cross said bar while said barque Sif lay upon it aground as aforesaid, but it was extremely dangerous to attempt the same.

Fourth. That on said 15th March, 1874, while said barque Sif was lying aground on the bar at the Southwest Pass aforesaid, said steam tow-boat Philip, which had been towing her by a hawser ahead, came to her stern, and taking a hauser from the stern of said barque Sif commenced towing her stern up stream, the said barque moving very slowly, and almost imperceptibly, and being still aground and blocking up the channel, at which time, say between 12 o'clock m. and 1 p. m. of said 15 March, 1874, the said ship Sterling, bound inward, approached said bar from sea in tow of the said steam tow-boat Equator, the day being
6 clear and fine and the wind blowing fresh from south southeast; that notwithstanding said barque Sif completely blocked the channel by being aground upon said bar, and there being no room to pass until the barque Sif had been towed off, which fact was well known, or should have been well known on board of said ship Sterling and said tow-boat Equator, the latter being ahead, towing said ship by a hawser fastened to the bow of said ship, without any notice or taking any precautions, rapidly and inconsiderately and recklessly continued on their course, pointing directly towards the said barque Sif, as she lay aground as aforesaid; that the said tow-boat Equator succeeded in safely passing the said barque Sif under her stern, but very close to her and touching her with the towing-hawser of said tow-boat, but said ship Sterling, propelled with great force by said tow-boat, ran straight into the barque Sif, bow on, striking said Barbue Sif
7 a violent blow upon the port side of said barque Sif, almost opposite her foremast, protruding the bowsprit, &c., of said ship Sterling completely through the rigging and across the deck of said barque over to starboard, and breaking down and destroying the greater part of the masts, sails, yards, and rigging of said Barque Sif, from her mizzen-mast forward, breaking her rails, boat-galleys, boat, &c., and so seriously damaging said barque that it has become necessary to discharge her cargo and place her in the ship-yard to be repaired and re-rigged, and to abandon her said voyage until such time that said barque can be ready for sea, a period of not less than thirty days.

Fifth. That subsequently, after said ship Sterling had been towed away from said barque Sif, said barque was towed off of said bar and taken back to Pilot Town, where she was anchored at about 4 p. m. of said 15' March, 1874, and was afterwards towed back to
8 New Orleans where she arrived on Wednesday, 18th March, 1874, about 9 o'clock p. m.

Sixth. That said collision occurred in broad daylight, between 12 m. and 10 o'clock p. m., and was wholly the fault of said ship Sterling and

said steam tow-boat Equator, and occasioned by their reckless and inconsiderate course in attempting to cross the said bar while it was blocked by said barque Sif; that said ship Sterling and said steam tow-boat Equator should not have attempted to cross said bar while it was occupied by said barque Sif, and had no right to attempt to do so, or run into and damage said barque Sif in such perilous undertaking; and that said tow-boat Equator and said ship Sterling should have anchored or otherwise remained outside the said bar until the same was cleared by said barque, being towed of' the same; and said collision was
9 also caused by the unskilful and unseamanlike manner in which said ship Sterling and said steam tow-boat Equator were handled, and the recklessness displayed by their officers; and that said tow-boat did not have the skilful and experienced crew and officers that she should have had.

Seventh. That when the danger of a collision between the said vessels, as aforesaid, was first perceived on board the said barque Sif it was impossible for her to get out of the way of the said ship Sterling and said tow-boat Equator, as said barque was aground upon the bar at said Southwest Pass and could in no manner help herself, and she so remained aground at the time of the collision and afterwards.

Eighth. That at the time of the aforementioned damage to the said barque Sif and her cargo the libellants were the true and lawful owners of the said barque and cargo, and that the damage to the said barque Sif was of the value of seven thousand dollars, and the
10 damage to the said cargo was of the value of dollars; that the loss suffered by libellants on the breaking up and deferring of the trip till such time as the barque may again be ready for sea is of the value of two thousand dollars, and that by reason of the careless, negligent, unskilful, and improper management of the said ship Sterling and the said steam tow-boat Equator, and of the collision thereby occasioned by the said ship Sterling with said barque Sif, the libellants have sustained damages to the amount of nine thousand dollars or thereabouts, for which they claim reparation in this suit.

Ninth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore libellants pray that process in due form of law may issue against the said ship Sterling and said steamboat Equator, their engines, machinery, boats, tackle, apparel, and furniture, and that
11 all persons claiming any interest therein may be cited to appear and answer upon oath all and singular the matters aforesaid according to the course of courts of admiralty and the rules and practices of this honorable court in civil causes of a'miralty and maritime jurisdiction, and that this hon. court will pronounce for the damages aforesaid and decree the same to be paid with costs, and will pronounce for the same also against the said ship Sterling and steam tow-boat Equator, and that said vessels may be condemned and sold to pay the same, and for such other and further relief and redress as to right and justice may appertain and the court is competent to give in the premises.

(Signed) CARL LORANGES.
(Signed) HORNOR & BENEDICT,
Proctors for Libellants.

Sworn to and subscribed before me this 24th day of March, 1874.
(Signed) K. LOEW, *U. S. C.*

12 *Order.*

Let admiralty process issue as prayed for.
March 24, 1874.
(Signed) K. LOEW, *D'y Clk.*

Admiralty warrant.—Issued March 24, 1874.

The President of the United States of America to the marshal of the district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the ship Sterling and steam tow-boat Equator, now libelled by R. M. Peterson and al., for the causes set forth in the libel now pending in the district court of the United States for the district of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right,
13 title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said ship or tow-boat should not be condemned and sold agreeably to the prayer of libellant, and how you have executed this warrant that you make return according to law.

Witness the honorable Edward H. Durell, judge of the said court, at New Orleans, this 24th day of March, 1874, and the 98th year of the Independence of the United States.

[SEAL.] (Signed) K. LOEW, *D'y Clk.*

Marshal's return.

Received March 24, 1874, by the U. S. marshal, and on the 25th day of the same month and year seized the ship Sterling, her tackle, apparel, and c., & appointed keeper thereon, and on the 30th day of March, 1874, seized tow-boat Equator, her tackle, &c.; appointed
14 keeper thereon. Monition published in the New Orleans Republican and hereto attached.

N. O., April 8, '74.
(Signed) C. R. STEELE,
D'y Marshal.

Marshal's monition attached to warrant.

R. M. PETERSON ET AL.
vs.
SHIP STERLING AND STEAM TOW-BOAT EQUATOR. } No. 10496.

In the United States district court, district of Louisiana.

In obedience to an admiralty warrant to me directed in the above-entitled suit, I have seized and taken into my possession the ship Sterling and steam tow-boat Equator, their tackle, apparel, etc., now libelled by R. M. Peterson et al. for the causes set forth in the libel now pending in the district court of the United States.

And I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have

15 any right, title, or interest in or to the same, to be and appear at a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on the third Monday of April, to show cause, if any they have or can, why the said ship Sterling and steamboat Equator should not be condemned and sold agreeably to the prayer of libellants.

United States marshal's office, New Orleans, March 30, 1874.

(Signed) S. B. PACKARD,
United States Marshal.

Claim for ship Sterling.—Filed March 26, 1874.

U. S. district court in admiralty.

R. M. PETERSON & ALS.
vs.
SHIP STERLING AND STEAM TOW-BOAT EQUATOR. } No. 10496.

Now comes J. G. Baker, master of the American ship Sterling, and says that E. and A. Sewell and others, residing in the State of Maine, are the true and bona fide owners thereof, and that no other persons own the said ship, and prays that she may be released on

16 the accompanying bond.

(Signed) J. G. BAKER.

Sworn to and subscribed before me March 26, '74.

(Signed) J. A. CHARBONNET,
D'y Clerk.

Release bond for ship.—Filed March 26, 1874.

UNITED STATES OF AMERICA,
District of Louisiana:

Know all men by these presents that we, E. and A. Sewell and others, owners of American ship Sterling, and R. R. Decan, James E. Read, sureties, are held and firmly bound unto R. M. Peterson et als., libellants, in the sum of ten thousand dollars, lawful money of the United States of America; for the payment whereof to the said libellants, their heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us at New Orleans, this 26th day of March, one thousand eight hun-

17 dred and seventy-four.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the district of Louisiana, at the suit of R. M. Petersen & als. vs. Ship Sterling and Steam Tow-boat Equator, their tackles, apparel, and furnitures, and numbered 10496 on the docket of the said court, commanding the marshal to seize and take into his possession the said ship Sterling, which has been seized accordingly, but has been released from said seizure and delivered to J. G. Baker, the master and bailee for owners thereof, by reason of the signing, sealing, and delivery of these presents, said master having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court.

Now, the condition of the above obligation is such that if the said claimant and surety abide by all the orders, interlocutory or final, of the court, and pay the said libellant the amount awarded by
18 the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

(Signed) J. G. BAKER,
Master, for Owners.
(Signed) JAMES ED. READE.
(Signed) ROBERT R. DECAN.

Signed, sealed, and delivered in the presence of—
Accepted.
(Signed) HORNOR & BENEDICT.

Writ of release.—Issued March 26, 1874.

United States district court, district of Louisiana, New Orleans, clerk's office, ss:

R. M. PETERSEN & AL.
vs.
SHIP STERLING AND STEAM TOW-BOAT EQUATOR. } No. 10496.

The President of the United States of America to the marshal of the district of Louisiana, or his lawful deputy, greeting:

19 Whereas J. G. Baker, master and lawful bailee for owners of said ship, hath this day filed a claim thereto on behalf of said owners, and which said claim is now of record in this office:

You are hereby authorized to release the said ship from seizure, and her to restore to the possession and custody of said claimant, he having given bond conditioned as required by law, and otherwise complied with the rules of court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Edward H. Durell, judge of said court, at New Orleans, this 26th day of March, A. D. 1874, and the 98th year of the Independence of the United States.

[SEAL.] (Signed) J. A. CHARBONNET,
D'y Clk.

Marshal's return.

Received March 26, 1874, by the U. S. marshal, and on same day released the ship Sterling only.

(Signed) J. B. STOCKTON,
D'y U. S. M'l.

20 *Claim for Tow-boat Equator.*

U. S. dist. court. In admiralty.

R. M. PETERSON & ALS.
vs.
THE SHIP STERLING & S. TOW-BOAT EQUATOR. } No. 10496.

The claim of S. & J. M. Flanagan and Edward A. Yorke, owners of the steam tow-boat Equator.

Now comes Edward A. Yorke, of New Orleans, and says that S. & J.

M. Flanagan, of Philadelphia, and this affiant are the true and bona fide and exclusive owners of the tow-boat Equator, and as such entitled to the possession thereof, and pray that, the accompanying bond considered, the said steam tow-boat be released to him.

(Signed) EDWARD A. YORKE.
(Signed) E. D. CRAIG, *Proctor.*

Affidavit waived.
(Signed) HORNOR & BENEDICT,
For Libellants.

21 *Release-bond for tug—Filed March 30th*, 1874.

UNITED STATES OF AMERICA,
District of Louisiana:

Know all men by these presents, that we, S. & J. M. Flanagan, of Philadelphia, Penn., Edward A. Yorke, of New Orleans, claimants and owners of the steam tow-boat Equator, as principals, and Edward A. Yorke, as surety, are held and firmly bound unto R. M. Petersen & als., libellants, in the sum of ten thousand dollars, lawful money of the United States of America; for the payment whereof to the said libellants, their heirs, executors, administrators, or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents. Witness our respective names and seals hereunto affixed by us at New Orleans, this 30th day of March, one thousand eight hundred and seventy-four.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the
22 district of Louisiana, at the suit of R. M. Petersen & al. Ship Sterling, and Tow-boat Equator, their tackle, apparel, and furniture, and numbered 10496 on the docket of the said court, commanding the marshal to seize and take into his possession the said steamboat Equator, which has been seized accordingly, but has been released from said seizure and delivered to Edward A. Yorke, the claimant and part owner thereof, by reason of the signing, sealing, and delivery of these presents, said claimant having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such that if the said claimant and surety abide by all the orders, interlocutory or final, of the court, and pay the said libellant the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but
23 otherwise shall remain in full force and virtue.

(Signed) S. & JAS. M. FLANAGAN,
By EDW. A. YORKE.
(Signed) EDWARD A. YORKE.

Bond accepted.
(Signed) HORNOR & BENEDICT,
Proctors for Libellants.

Release for tow-boat.—Issued March 30th, 1874.

United States district court, district of Louisiana, New Orleans, clerk's office, ss.

R. M. PETERSON & AL.
vs.
SHIP STERLING & AL. (TUG EQUATOR). } No. 10496.

The President of the United States of America to the marshal of the district of Louisiana, or his lawful deputy, greeting:

Whereas Edw. A. Yorke, agent for the owners of the tow-boat Equator, hath this day filed a claim thereto on behalf of the owners, and which said claim is now of record in this office:

You are hereby authorized to release the said tug Equator
24 from seizure, and her to restore to the possession and custody of said claimant, he having given bond conditioned as required by law, and otherwise complied with the rules of the court, &c.; and make return of your doings in the premises.

Witness the Hon. Edward H. Durell, judge of said court, at New Orleans, this 30th day of March, A. D. 1874, and the 98th year of the Independence of the United States.

[SEAL.] (Signed) K. LOEW, *D'y Clk.*

Marshal's return.

Received March 30th, 1874, by the U. S. marshal, and on same day released.

(Signed) J. B. STOCKTON,
Dep'y U. S. M'l.

Answer of Ship Sterling.—Filed April 17, 1874.

U. S. d't court. In admiralty.

R. M. PETERSON ET ALS.
vs.
THE SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496.

25 The answer of J. G. Baker, master of the American ship Sterling, on behalf of the owners thereof.

Now comes said Baker and for answer to the above-mentioned libel says:

1st. That E. & A. Sewell and others, residing in the State of Maine, are the owners of the ship Sterling, and this respondent the master and lawful bailee thereof; that said ship is of 1,731 tons burthen, and was at the time of the alleged cause of action fully equipped with skilful officers and crew, and in every way well adapted to the navigation upon the high seas, and on a voyage from Antwerp, Belgium, to New Orleans.

2d. That as to the allegations contained in art's 1 and 2 of the above-mentioned libel this respondent is not informed as to the truth or falsity of the same.

3d. That the allegations contained in article 3 of the above-mentioned

libel, so far as the knowledge of respondent goes, the same are not true as stated therein, except so far as admitted hereafter.

26 4th. That as to the allegations in the 4th article the same are not true in manner, form, and effect as there stated. It is admitted that the ship Sterling was on the bar of the SW. Pass, towed there by the Equator at the time of the collision, but it is not true that the ship Sterling ran into and collided with the bark Sif; on the contrary at that time the ship Sterling was aground on a mud lump on the east side of the channel, and while there was struck by the Sif, which, stern foremost, ran across the bows of the said ship Sterling striking, near the foremast of said Sif.

The said bark Sif approaching the Sterling from a westerly or N. west course impelled by the resultant force caused by the current of the river and the tow-boats Philip and Lone Star, all of which was inevitable so far as the Sterling was concerned, and without any fault on the part of those having her under control.

5. That, as to the allegations contained in art. 5 of said libel,

27 this respondent knows nothing of the truth or falsity of the same.

6. That the charges of unskilfulness and recklessness made by libellants in art. 6 of said libel against the ship Sterling are untrue, and the statements made in said article that the Sterling should have awaited the Sif's passage over the bar and remained outside is without reason and simply absurd.

It is not true that the channel was only sufficient for the Sif; there was room enough for both the Sif and Sterling to pass in safety, but for the obstinacy, recklessness, and unskilful conduct on the part of the Sif; that the other allegations in said article herein not traversed are not true as stated by libellants.

7. That it is not true as stated in art. 7 of the above libel that the Sif was stationery at the time of the collision, or that the collision was inevitable as to the Sif; on the contrary the Sterling was in the helpless condition attributed by libellants to the Sif, and impossible to avoid the impending collision brought about by them in command of

28 the Sif.

8. The damages as stated in art. 8 of said libel and elsewhere therein to the bark Sif are not correctly stated.

9. That by reason of the recklessness, unskilfulness, and fault of those in control of the Sif the ship Sterling suffered damages by reason of said collision, for which this respondent reserves the right to file a cross-bill hereafter against libellants and said bark Sif.

10. That all and singular the allegations of libellants not specially traversed herein are not admitted to be true in the manner and form set forth by libellants, but denied.

Wherefore this respondent prays that libellants' demand be rejected, with costs, and for all equitable relief.

(Signed) J. G. BAKER,
Master of Ship Sterling, for Owners.

Sworn to and subscribed to before me this 17' day April, 1874.

(Signed) CHAS. S. RICE,
U. S. Comm'r, Dist. of La.

29 *Answer of Tow-boat Equator.—Filed April 17th*, 1874.

U. S. dist. court. In admiralty.

R. M. PETERSON & AL.
vs.
THE SHIP STERLING AND TOW-BOAT EQUATOR. } No. 10496.

The answer of Edward A. Yorke, part owner of the steam-tug Equator, on behalf of the owners thereof.

Now comes Edward A. Yorke aforesaid, and for answer to the matters contained in the above-entitled libel says:

1st. That the tow-boat Equator is of 227 $\frac{29}{100}$ tons burthen, and owned by S. & J. M. Flanagan, of Philadelphia, Pa., and this respondent, and is engaged in wrecking, salvage, and towage services in the Gulf of Mexico and the Miss. River, and duly enrolled and licensed under the laws of the United States.

2. That respondent knows nothing of the allegations contained in art's 1 and 2 of the said libel.

3. That the allegations detailed in art. 3 of said libel are not
30 true as therein stated, except such portions thereof as may be admitted hereafter.

4. That in answer to the 4th article of the above libel mentioned herein the allegations therein as stated are untrue. It is true that prior to the collision between the Sif and the Sterling on the date set forth by libellants the ship Sterling was towed by the tow-boat Equator from sea to the bar of the SW. Pass, but it is not true as stated by libellants that said ship Sterling was moving at the time of the collision by the agency of tow-boat Equator in the direction of the Sif, but on the contrary said ship Sterling at the time of the collision was fast upon a mud-lump with her hawser loosened from the Equator and on the east side of the channel, and had the Sif remained on the west side of said channel, where she was first discovered by those on board of the Equator, and had she ceased from her efforts for a short time to pass over the bar, the Equator would have succeeded in hauling
31 the Sterling off the mud-lump, and the said Equator and Sterling would have passed safely at a good distance and without danger or damage, but while the Sterling laid in the situation as detailed the bark Sif was under the influence of the combined forces of the tow-boats Philip and Lone Star pulling from the stern of the said Sif in a northerly or N. east direction, and the current of the river driving her southward, which resulted in causing her to move off in the direction of the Sterling, lying on the mud-lump as aforesaid, and running afoul of her (the Sterling's) bowsprit and jib-boom, striking said bows on her (Sif's) port side near the fore-rigging or thereabouts.

5. That the charges of unskilfulness and recklessness against those in charge of the Equator made by libellants in art. 6 of the above libel and elsewhere are not true; that at the time the Equator was well adapted to towing, and had on board a full crew and experienced officers; that the other charges against the Equator and Sterling
32, 33 in said articles and elsewhere are unfounded in fact and untrue, and the statement in said article to the effect that the Equator should have remained outside with the Sterling until the Sif had succeeded in passing the bar is without reason and absurd.

6. That it is not true as stated in art. 7 of the above libel that the

Sif was stationery at the time of the collision, or that the collision was inevitable as to the said Sif, on the contrary the Sterling was in the helpless condition that libellants say the Sif was, and it was impossible for the Equator to save said Sterling *for* the impending collision, nor did the said Equator contribute in any degree to said collision.

7. That the damages stated in art. 8 and elsewhere in the above-mentioned libel are not correctly stated.

8. That all and singular the allegations contained in libel-
34 lants' demand are denied as true in the manner, form, and effect as in said libel contained.

Wherefore this respondent prays to be dismissed with costs and for all equitable relief.

(Signed) EDW. A. YORKE.
(Signed) E. D. CRAIG,
Proctor.

Sworn to and subscribed before me this 16th day of April, 1874.
(Signed) CHAS. S. RICE,
U. S. Comm'r, Dist. of La.

Motion to amend answer of tug.—Filed April 25th, 1874.

U. S. dist. court.

R. M. PETERSON & AL.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR.

On motion of E. D. Craig, proctor for claimants, and on suggesting to the court that there is an omission in the three last lines of art. 4 of the answer filed for claimants of Equator, and that instead of reading bows, said answer should should read bowsprit and jib-boom,

It is ordered by the court that the answer be amended and
35 the word bows occurring in said three last lines be changed to bowsprit, and the word jib-boom be added after said words bowsprit.

Order.

Let the amendment prayed for be allowed.
April 25, 1874.
(Signed) E. H. DURELL, *Judge.*

Bond for costs.—Filed May 8th, 1874.

UNITED STATES OF AMERICA,
District of Louisiana, ss:

To wit: Personally appearing before me, the undersigned United States commissioner for the district of Louisiana aforesaid, Carl Lorange, master of the ship Sif, as principal, and Carl P. Seymer, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the clerk of the U. S. district court, La., for the interest of whomsoever it may concern, in the full sum of two hundred and fifty
36 dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements for the use of the said clerk as above, and for the payment whereof they jointly and severally

bind themselves, their heirs, executors, and administrators, firmly by these presents.

Whereas in the matter of R. M. Petersen & al vs. Ship Sterling, No. 10496 of the docket of the district court of the United States for the district of Louisiana, a libel has been filed on behalf of R. M. Petersen & als.:

This obligation to be null and void on condition that the said R. M. Petersen & als. shall abide by the final decree rendered in the cause, and all such costs, expenses, and damages as shall be awarded by the court upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) CARL LORANGE, [L. S.]
Master of the Sif.

(Do) CARL P. SEYMER, [L. S.]
63 *Clouet st., N. O.*

37 Signed & sealed at the city of New Orleans this 8th day of May, 1874, in the presence of—

(Signed) J. A. CHARBOBNNET,
D'y Clerk U. S. District Court,
District of Louisiana.

Testimony for libellant.—Filed June 1st, 1874.

R. M. PETERSON & AL.
vs.
SHIP STERLING & TUG EQUATOR. } No. 10496.

Testimony taken by consent in the office of Messrs. Hornor & Benedict

NEW ORLEANS, *April 2d*, 1874.

Joseph P. Hornor, esq., for libellants; Emmet D. Craig, esq., for claimants.

To be filed by consent.
N. O., May 30th, 1874.

E. D. CRAIG,
Proctor for Claimants.

CARL P. SEYMER sworn on his voir dire by Mr. HORNOR:

Q. Do you reside in this city?
A. I do.
38 Q. Do you understand the Norwegian and Swedish languages?
A. Yes, sir.
Q. Have you any interest in this case?
A. None whatever.

Mr. Carl P. Seymer was then sworn as interpreter, and acted as such in the taking of all the following testimony:

PETER AUGUST SORENSEN sworn and examined on behalf of libellant.

By Mr. HORNOR:

Q. How old are you?
A. Twenty-four years.

Q. What is your business?
A. Mate.
Q. How long have you been following the sea?
A. Ten years.
Q. What vessel are you employed on now?
A. The bark Sif.
Q. How long have you been on the bark Sif?
A. Nine months.
Q. Where was the bark Sif on the 15th of March last?
A. In the morning early she was in Pilot Town, but in the
39 course of the day she came on the bar.
Q. Tell the whole story.
A. At seven o'clock in the morning the steamer and pilot came and the ship lifted her anchor and went out. When the vessel got down to the bar we had to anchor an account of another steamer being 'ground on the bar.
Q. Do you know the name of that steamer?
A. No. About ten o'clock in the morning the steamship got off the ground of the bar; at half past eleven the tow-boat came back to the Sif to take her over the bar. We lifted the anchor when we turned around on the bar; the hawser got afoul of the anchor, which caused her to go slow in turning. The vessel got aground on the east side of the channel. We set the jibs, and the vessel drifted off the ground. We had to anchor again on account of an American schooner coming in. By that time the vessel got aground on the west side of the channel.
We hove up the anchor again and took the tow-boat astern.
40 When they had towed awhile we got assistance from another boat.
Q. Do you know the name of the first one?
A. The Philip.
Q. And the other one that you got to help her?
A. The Lone Star. She went slowly over the ground, still all the time remaining aground and not afloat. While those two boats kept on pulling on the Sif the ship Sterling was approaching from the east with a tow-boat ahead.
Q. Do you know the name of the tow-boat that was ahead of the Sterling?
A. Equator. The Equator went astern of the Sif; the Sterling went on the port side of the Sif, and struck her abaft the fore-rigging. The Sif was still remaining aground. An instant prior to the collision I think that the Sif's tow-line was cut from the Philip and Lone Star.
Q. At the time that the Sterling struck the Sif, was the Sif moving?
A. I cannot say; but it must have been very little, if any.
41 Q. State whether the bark Sif was in the channel or not.
A. I don't know.
Q. Did you see a buoy to the eastward of the Sif?
A. Yes, sir.
Q. How near was the Sif to that buoy?
A. She was not far from it.
Q. Could you not tell nearer than that?
A. About half a cable's length; I cannot say it exactly.
Q. The Equator was drawing the Sterling by a hawser ahead of the Sterling?
A. Yes.
Q. How long a hawser?
A. She had about half a cable's.

Q. How long is a cable?
A. About a hundred fathoms.
Q. State whether that cable of the Sterling that she was being towed by touched the Sif.
A. I cannot say positively, but I think it touched the stern.
Q. How long was it from the time you first saw the Equator and the Sterling approaching before the Sterling *coming*?
A. I cannot positively say, but they went quick.
42 Q. Did the Sterling strike the Sif with little force or with great force?
A. She had a good headway on her.
Q. What was the effect of the blow given by the Sterling to the Sif? What was the effect on board the Sif?
A. Both masts came down, and the mizzen-topmast.
Q. Which two masts?
A. The fore and main masts and mizzen-topmast.
Q. They were broken down?
A. Yes.
Q. What effect did it have upon the hull of the ship?
A. It broke down the gallant rails and staunchions.
Q. What other damage did it do?
A. The copper was damaged, and a few treenails were started.
Q. How did the shock of the collision move the Sif?
A. She listed badly over to the starboard, but I don't think she moved any.
Q. Was she still aground after the collision?
A. She still remained aground after the collision.
43 Q. Was the Sif afterwards brought to this city?
A. Yes.
Q. Where was the Sif bound at the time of the collision?
A. Bound to Havre, from New Orleans.
Q. After she came back to New Orleans was she obliged to unload?
A. Yes.
Q. Did she discharge her cargo?
A. Yes.
Q. Why did she have to do that?
A. To get the old broken masts out, and get new ones in.
Q. Could they not have done that without discharging the cargo?
A. No.
Q. Did the new masts that were put in to the ship have to be stepped in her?
A. Yes.
Q. Was anybody hurt on board the Sif by the collision?
A. The second mate had a bone broken in his arm.
Q. What broke his arm?
A. I don't know.
Q. Did anything fall on the second mate?
A. I believe the back-stay fell on him.
44 Q. Did you see it?
A. No.
Q. Did you see the second mate when he got hurt?
A. Immediately afterwards.

Cross-examined by Mr. CRAIG:

Q. At the time of the collision, in what direction was the bow of the Sif pointing?

A. It was pointed westward.
Q. In what direction does the current run at that place?
A. The current runs southward.
Q. Do you understand that question to apply to the time of the collision?
A. Yes.
Q. Now, at the time of the collision, was the hawser attached to the Sterling still attached to the Equator?
A. If she was fastened the instant she struck, I cannot say.
Q. Was the hawser attached to the Sif and the Philip cut, or did it part?
A. From what I can judge by the rope it was cut.
Q. How long before the collision was it cut?
A. A very short instant.
Q. Was it fully two minutes?
45 A. Yes, I think it was.
Q. Do you think it was five minutes?
A. I cannot say that it was as much as five minutes.
Q. You cannot say whether it was under or over five minutes?
A. No.
Q. What portion of the Sif and of the Sterling collided?
A. The bowsprit of the Sterling struck first.
Q. Struck what?
A. I' took either the stays or the back-stays.
Q. Of what?
A. Of the Sif.
Q. What part of the Sterling struck what part of the Sif first?
A. It was the jib-boom and bowsprit of the Sterling; I cannot say whether it was the back-stay or the stay that it took first on the Sif. It went in between the foremast and the mainmast of the Sif.
Q. Did the Sterling strike nearer the mainmast or nearer the foremast of the Sif?
A. Nearer the foremast.
46 Q. Was it nearer the bow of the Sif or nearer the mainmast?
A. I think it was just between the mainmast and the foremast.
Q. Do you mean the stem of the vessel or the bowsprit of the vessel?
A. It was nearer the bow of the Sif.
Q. What was the length of the Sif?
A. I cannot say exactly.
Q. Approximate it.
A. About a hundred and fifty feet.
Q. That you mean is from the extreme points of the vessel fore and aft?
A. From the fore-stem to the staff.
Q. How far was it from the fore-stem that this collision took place?
A. About sixty feet.
Q. How far is the mainmast from the fore-stem?
A. I cannot say exactly.
Q. Well, about?
A. About eighty feet.
Q. How far is the foremast from the same point?
A. About forty feet.
Q. How swift is the current at the place of the collision; how many knots an hour?
A. I couldn't say exactly.

Q. Was the current rapid or otherwise?

A. I' was probably strong.

47 Q. Were there any eddies there, or was it a direct current?

A. As far as I could say, the current was straight.

Q. What was the length of the hawser between the Sif and the Philip?

A. Between 40 and 50 fathoms.

Q. Was the hawser cut or parted near to the Sif or near to the tow-boat?

A. Nearer to the tow-boat.

Q. Did you see any one cut the cable?

A. No.

Q. On the day of the collision, at what time in the day did the Sif get on the bar?

A. About 12 o'clock.

Q. What time did the Philip come to her to pull her off?

A. The Philip came at half past eleven.

Q. That was before she got aground?

A. Yes.

Q. What time did the Philip unite to the hawser of the Sif; what time did they take her in tow?

A. About a quarter to twelve.

Q. About what time was it, then, that the hawser was cut or parted, as the case may be?

48 A. Very near 1 o'clock.

Q. Was the Philip working upon the Sif all this time and trying to get her into deep water?

A. They first put her aground once and had to anchor her on account of a schooner coming in, and then went back and took again.

Q. What was the name of that schooner?

A. I don't know.

Q. What time did the schooner come in?

A. A few minutes after 12.

Q. From this time (a few minutes after 12) until 1 o'clock was the Philip engaged in attempting to haul her off into deep water?

A. Yes, sir.

Q. When did the Lone Star come up?

A. About half past twelve.

Q. What did she do?

A. She got a line from the Philip and pulled on the Philip.

Q. Did these two tow-boats combined have any effect upon the movements of the Sif?

A. Yes, sir; they moved her slowly.

Q. In what direction were they pulling the Sif?

49 A. They hauled the Sif in a northeasterly direction.

Q. Was the wind blowing at the time, or was it calm?

A. A light breeze.

Q. The movements could not have been affected by the wind, then?

A. No.

Q. How long were you towing in that northeast direction before the hawser was cut or broken or parted?

A. About a quarter of an hour.

Q. How long were the Sterling and Equator in sight of you coming up over the bar before the collision?

A. I didn't see them more than ten minutes.

Q. Who had charge of the Sif?

A. The pilot.
Q. Who was the pilot?
A. I don't know his name, sir.
Q. Have you been many times to the port of New Orleans?
A. Never before.
Q. Are you acquainted with the width of the channel at the time of the collision?
A. No; I am not acquainted with it.
Q. What was the draught of the Sif?
A. 14¾.
50 Q. Do you know her tonnage?
A. 250 Norwegian lasts.
Q. What is a last?
A. About two tons to a last; that would be 500 tons.
Q. How many feet was the bark drawing at the time; was fourteen and three-quarters the full capacity of the vessel, or was she drawing it at the time?
A. I did'nt notice any difference in the draft.

Redirect by Mr. HORNOR:

Q. Do you know how much water there was on the bar at the time the ship was aground on it?
A. No.
Q. How long was the ship aground on the bar before the collision took place?
A. About 15 or 20 minutes.
Q. What part of the Sif was the hawser made fast to that the Philip had out from her?
A. From the port stern chock.
Q. Was it a fair day or was it cloudy or foggy?
A. A clear day.
Q. From what quarter was the wind blowing?
51 A. Southeast, or south of east.
Q. How close was the Sterling to the Sif when the Sif's hawser was cut?
A. She was close on board. We expected a blow at the time.
Q. Did you examine the end of that hawser afterwards?
A. Yes.
Q. From the end of the hawser, what was your idea as to whether it was cut or whether it had parted?
A. It was my belief that it was cut off, after examining it.
Q. What made you have that belief?
A. I have never seen a line break so short off as that was.
Q. Was it a smooth break or a rough break?
A. It was smooth.

By Mr. CRAIG:

Q. Can you swear positively that hawser was cut?
A. No.
Q. Were the sails of the Sif set?
A. No.
Q. Did the wind have any effect on the movement of the vessel?
A. I don't believe so.
52 By Mr. HORNOR:
Q. How far did the Sif move from the time that you first saw the Sterling and the Equator until the collision took place?

A. Very little, if any.

By Mr. CRAIG:

Q. On which side of the channel did the collision take place; on the east or on the west side?

A. According to my belief, on the east side.

Q. Where did she ground first, on the east or on the west side?

A. She first got aground on the east side.

Q. Where did she ground the next time?

A. I believe it was on the west side.

Q. Then, do I understand you to say that the time next to the collision was on the west side of the channel?

A. At the time that she received the blow, it is my belief that she was on the east side.

Q. Just previous to that was she 'ground on the east or on the west side?

A. It may be on the east side.

53 Q. Did she ground afterwards on the west side—was it after she grounded on the east side that she grounded on the west side?

A. She was aground on the west part after she had been aground on the east part.

A. And it was after she was grounded on the west side that she had the collision?

A. Yes.

By Mr. HORNOR:

Q. From the time that the Sif first went aground on the bar was she ever afloat after the collision?

A. I think she was.

Q. When was she afloat?

A. A little while she had to anchor for the American schooner.

Q. Was the Sif lying on the west side of the channel or on the east side of the channel, or was she athwart the channel?

A. I think that she was on the east side.

OMAR LYCHE sworn and examined on behalf of libellant.

By Mr. HORNOR:

Q. What is your age?

54 A. Twenty-two years.

Q. Your business?

A. Seaman.

Q. How long have you been a seaman?

A. Since 1867.

Q. What vessel are you on now?

A. The bark Sif.

Q. What is your position on her?

A. Second mate.

Q. How long have you been second mate on the Sif?

A. About nine months.

Q. Were you on board of her on the fifteenth of March last when she had this collision?

A. Yes.

Q. Where was she on the morning of the 15th of March?

A. She laid at Pilot Town.

Q. State all that happened after you left Pilot Town.

A. She was towed out towards the bar, but had to anchor again on account of a steamer that was laying on the bar. When that steamer got off we lifted anchor again and went further down towards the bar, and had to anchor again on account of a schooner coming in. Then we got aground. The tow-boat had to let go the hawser, and
55 we hauled that in and gave it back to the steamer from the port stern hawse pipe. That tow-boat towed on her for a long while, and finally another boat came to help her. While those two were towing the Sif the Sterling was approaching behind another tow-boat.

Q. Do you know the name of that tow-boat?

A. Yes, sir; the Equator. The Equator went astern of the Sif. The Sterling came in on the port side of the Sif; all hands went aft on the Sif; when I got aft as far as the cabin I got a knock which knocked me senseless. When I came to my senses I saw the masts were gone. I was compelled to go to bed, so I saw very little of it.

Q. What part of the Sterling struck the Sif first?

A. The Sterling's jib-boom came in between the back-stays and fore-rigging.

Q. Between which masts?

A. Between the fore and main masts.

Q. Did the bow of the Sterling strike the Sif?

56 A. I don't know whether it was the bow or the head-gear that struck the rail of the Sif.

Q. Did it move the Sif or careen her over, or anything?

A. Yes, sir.

Q. Was the Sif aground at the time this took place?

A. Yes.

Q. Which way was her head pointing?

A. She was heading west of her.

Q. How long had the Sif been aground before she was struck by the Sterling?

A. About one hour's time, I think.

Q. How much did she move during that time?

A. Very little, if any.

Q. Do you know anything about the hawser parting between the Sif and the Philip?

A. No; I don't know anything about it.

Q. Did you examine that hawser afterwards to see if it had been cut or broken?

A. Several days afterwards.

Q. What was the appearance of it?

A. Sometimes it was clear and sometimes a little hazy.

Q. At the time of the collision was it clear?

A. Yes.

57 Q. Had it been clear before that for any length of time?

A. Yes.

Q. How was the wind, or was there any?

A. The wind was southeast or south of east.

Q. How was it blowing?

A. It was a fresh breeze.

Q. How many feet did the Sif draw at that time?

A. I think she drew about thirteen feet.

Q. What kind of cargo did she have on board?

A. Cotton.

Q. Was it necessary to take the cotton out in order to make the repairs?

A. Yes.

Q. Did you take it out?

A. Yes; a great deal of it.

Q. Describe the damages that the Sif sustained by the collision.

A. The fore and main masts were gone, and all her topmast and main yard, one gallant yare, fore shroud in the fore-rigging, fore-topmast back-stays, a great deal of running rigging, fore-topmast back-stays, a great deal of running rigging, port foreto' gallant
58 back-stay, the gallant rail on the starboard side, one boat, the gallant top rail on the port bow, some holes in the copper on the port bow, and the tops and cross-trees.

Cross-examined by Mr. CRAIG:

Q. What time did the tow-boat Philip fasten to the Sif first of all?

A. I cannot say positively; I think it was about 10 o'clock.

Q. What time did she ground on the bar?

A. I didn't look at the clock the whole forenoon.

Q. How long was it after ten o'clock?

A. I can't tell.

Q. One or two hours or more?

A. I can't give a positive answer.

Q. How long before the collision did she ground for the first time?

A. I think in about an hour's time.

Q. Was she grounded more than once? Did she get afloat and then get aground again?

A. I think she was aground the whole time.

Q. Did she run first aground on the east or the west side of the channel?

A. On the west side, I think.

59 Q. How long was it after she grounded on the west side to the time she grounded on the east side?

A. I cannot positively answer that question; I don't remember; I didn't note the time.

Q. Was she aground at all on the east side?

A. I don't believe that she was.

Q. Was she aground at all on the west side?

A. She must have been aground when we lifted anchor; we felt that she was touching the bottom.

Q. What direction does the current run at the place of the collison, north, south, east, or west, or any other direction?

A. I don't know.

Q. At the time of the collision was the Sif lying across the channel, or athwart the channel or not?

A. She laid across.

Q. Which way was she pointing with her bow?

A. Westward.

Q. Did you see the Sterling in tow of the Equator?

A. Yes.

Q. In what direction were they moving when you first saw them?

60 A. Right square on to us.

Q. What portion of the vessel did the Equator pass?

A. She passed on the port side around the stern.

Q. Did she pass the vessel at right angles?
A. She passed nearly parallel, but somewhat at a bend.
Q. What direction was the Sif pointing at the time of the collision?
A. She was heading west; I cannot say exactly the point of the compass.
Q. What direction was the Equator coming from just before the collision?
A. From the southward.
Q. Where was the tug-boat Equator when the Sterling struck the Sif?
A. About the stern.
Q. How far from the Sif?
A. I paid very little attention to it.
Q. What was the length of the hawser between the Sterling and the Equator?
A. Tolerably long hawser.
Q. Can you not tell nearly or approximatively the length of it?
A. No, I cannot.
Q. Do you think it was as much as forty fathoms long?
61 A. I didn't pay particular attention to it, but it was tolerably long.
Q. Well, it was a long hawser, wasn't it?
A. Yes.
Q. What is the ordinary length of a hawser?
A. Between 90 and 100 fathoms.
Q. How long was the hawser of the Sif?
A. I think the Sif's was about 90 fathoms.
Q. How old was your hawser?
A. As old as the ship.
Q. How old is the ship?
A. Nine months about.
Q. What is the diameter of your hawser?
A. I don't know.
Q. Well, about; was it as thick as your arm?
A. I think it is about an eight-inch hawser.
Q. That is in the circumference?
A. Yes, sir.
Q. How far from the Sif was it to the point where the hawser was cut or parted?
A. I couldn't say positively; I was not there to see it.
Q. Do you know then from your own information, or your own knowledge of the fact, that the hawser was cut?
A. Yes, it looks like it.
62 Q. But did you see it cut?
No.
Q. How many days afterwards was it that you examined it?
A. Three or four days, I think.
Q. What portion was it where it appeared to be cut? What was the length of each end of the hawser?
A. I cannot say. I only saw the end of the hawser.
Q. Which end did you see; the end attached to the tow-boat or the end attached to the Sif?
A. I think it was the end that was on board of the tow-boat.
Q. Did you see the end that was on board of the Sif?
A. I looked at the end that appeared to have been cut.
Q. Did you see both portions of the cable or not since the collision?

A. Yes, I have seen them.
Q. Now there were two parts; it was cut into two parts?
A. Yes.
Q. How long was each part?
A. I don't know.
Q. Was it cut near the middle?
A. I have not examined to see.
Q. Was either end that was cut 20 fathoms long?
63 A. It is very possible that it was; I don't know; I have not measured it.
Q. According to your best judgment?
A. If I had looked after it I would possibly be able to give you better information, but I have not.
Q. How did you come to look at it at all?
A. Because I was told that it had been cut.
Q. Who told you that it had been cut?
A. I think the mate did.
Q. You cannot swear, as I understand, whether that cable parted or was cut at the time of the collision, or whether it might have been cut afterwards, from you own knowledge?
A. It could not have been very long before the collision.
Q. What could not have been very long before the collision?
A. That it was cut or parted.
Q. Do you know that it was cut at the time of the collision or after the collision?
A. I cannot positively say.
Q. Mig't not an end of the hawser have been cut off after it came to town?
64 A. No, because I saw the end of it before it came to town.
Q. Where did you see the end of it?
A. It was on the way up to town.
Q. How long did you stay knocked out of your senses?
A. It wasn't very many minutes that I was senseless.
Q. Where did you discover the Sterling after you came to your senses?
A. I saw the Sterling on the port bow by the fore-rigging; her jib-boom was just over the Sif.
Q. Where was the Equator?
A. I think the Equator was aft; I did'nt pay attention to it.

Redirect by Mr. HORNOR:

Q. Where was the Sif bound at the time of the collision, from where to where?
A. To Havre from New Orleans.
Q. How long did you see the Sterling and the Equator before they struck the Sif?
A. From five to ten minutes.
Q. Where were the Sterling and Equator coming from?
A. From the southward.
Q. From sea?
A. Yes.
65 Q. Was the Sterling bound up the river?
A. It appeared so.
Q. Do you know how wide the channel was there?
A. No.
Q. Did you ever come to the port of New Orleans before?

A. No.

Q. How many fathoms of the hawser were out between the Sif and the Philip at the time of the collision?

A. I don't know.

Q. Was that part of the hawser that was left on board of the Sif used again after it was cut?

A. I was in my room after the collision; I don't know exactly what was done with it.

Q. Do you know whether it was used in bringing the Sif up to town?

A. Yes, sir; the cable was used.

Q. Were you hurt at the time of the collision?

A. I was hurt by some of the falling rigging.

Q. What damage did it do to you?

A. It broke the bone of my right arm.

By Mr. CRAIG:

66 Q. Where were you at the exact time of the collision, what part of the ship?

A. I was on the starboard side of the cabin, aft.

Q. What were you doing?

A. I was trying to escape from the falling rigging.

Q. What circumstance led you to think there would be a collision?

A. Because I saw that they were so close that it could not be avoided.

Q. What duty were you performing; were you doing anything just previous to the collision; if so, what were you doing?

A. I was doing nothing at the time.

By Mr. HORNOR:

Q. Could anything have been done on the Sif to avoid the collision?

A. No; nothing.

ANDREAS HARTRIG ERICKSON sworn and examined on behalf of libellant:

By Mr. HORNOR:

Q. How old are you?

A. Twenty-five.

Q. What is your business?

A. Sailor.

Q. How long have you been a sailor?

67 A. Eight years.

Q. What are you on board of now?

A. The Sif.

Q. How long have you been on board of her?

A. Nine months.

Q. What is your position?

A. Boatswain.

Q. Were you on board of this bark at the time of this collision, on the 15' of March last?

A. Yes, sir.

Q. Where was the Sif on the morning of that day?

A. Laid at anchor at the pilot station.

Q. Tell all that happened to the bark Sif from that time.

A. A tow-boat came about seven o'clock in the morning to take us out, and took us down towards the bar, but couldn't get across, and we had to go to anchor again and lay there until noon. Then we lifted the anchor, and we gave the steamer a hawser. While we turning

on the hawser got foul of the anchor, and while we were clear-
68 ing the hawser she was drifting, and she drifted aground, and we hauled in the hawser from the bow, and passed it out of the stern on the port side, through the stern hawsepipes. That boat couldn't pull us off, so we got the assistance of another tow-boat. While those two were pulling at her another tow-boat was coming in.

Q. What was her name?

A. Equator.

Q. Did she have a ship in tow?

A. Yes.

Q. What was her name?

A. A large American ship; I think it was the Sterling.

Q. What did they do?

A. The Sterling run aboard of the Sif by the fore-rigging.

Q. Did the Sterling strike the Sif full bow on, or quartering?

A. She didn't come exactly square, but a little angling.

Q. Over or through what parts of the rigging of the Sif did the bowsprit and jib-boom of the Sterling pass?

A. I think by the fore-topmast back-stay.

69 Q. Was it between the fore and main masts?

A. Yes.

Q. Did the bow of the Sterling strike the side of the Sif?

A. I didn't see exactly if she struck; but she laid right over on the Sif.

Q. Did the Sif careen over?

A. Yes.

Q. Was the Sif aground at the time of the collision?

A. Yes.

Q. Was she still aground after the collision took place?

A. Yes.

Q. Now, state what damage was done the Sif.

A. All the rigging and the main and the top mast went overboard, the gallant rails were broken, and there was a hole in the side, in the port bow; there was a boat broken.

Q. How long had the Sif been aground before the Sterling struck her?

A. I cannot say exactly; but somewhere near a half an hour.

Q. How far did the Sif move from the time she first got aground to the time that the Sterling struck her?

70 A. I cannot possibly say, as I had no marks to go by.

Q. Could she have moved very far?

A. I don't believe she moved far from that. I didn't have any marks to see whether she did or not.

Q. How long was it from the time that you first saw the Sterling and Equator until the Sterling struck?

A. Between five and ten minutes.

Q. Where was the Sif bound from and to?

A. She came last from New Orleans and was bound to Havre, and was loaded with cotton.

Q. Who was in charge of the Sif at the time of the collision?

A. The pilot.

Q. Do you know his name?

A. No.

Q. Did he give any orders at the time of the collision?

A. He stood aft and sang out to the steamboat to let go.

Q. To what boat?

A. I don't know to what boat.
Q. To the boat that had hold of the Sif?
A. I cannot say. There were two boats, and I don't know
71 which one it was. I cannot say what it was that he meant.
Q. What were the words that the pilot used? Say it in English.
A. "Let go." (The witness answering in English.)
Q. Was the hawser let go that tied the Sif to the steamboat that had hold of her at the stern?
A. I don't know; I paid no attention; I had enough to take care of myself.
Q. Do you know whether the hawser of the Sif was cut or parted?
A. By all appearances it was cut square off.
Q. Did you see it when it was cut?
A. No, sir.
Q. Do you know whether it was cut before the collision or after the collision?
A. No.
Q. Could anything have been done on board the Sif to avoid the collision?
A. No; I don't believe so.
Q. Do you know where the Sterling was bound to when she came there and hit you?
A. Apparently, she was bound to New Orleans.
72 Q. Do you know how many fathoms were cut between the Sif and the steamboat that had her towing her by the stern?
A. About half a cable.
Q. Have you ever been to this port before?
A. No.
Q. Do you know how wide this channel was when you were aground on the bar there?
A. No; I don't know.
Q. Did you examine the hawser of the Sif after the collision took place?
A. They hauled it in, and then I saw it.
Q. How much had been cut off of it?
A. I don't know exactly.
Q. Well, how much was left on board the Sif?
A. I don't know exactly; I didn't measure it.
Q. Was there half of it, or more than half of it?
A. More than half left on board of the Sif.
Q. Where is the other piece?
A. I don't know where it is.
Q. Is it on board the Sif?
A. No.
Q. Has it ever been on board the Sif since the collision?
73 A. No.
Q. Can you say how many fathoms of that cable remain on board the Sif?
A. No; I don't know how long that cable is.
Q. When did you first examine the end that looked like it was cut?
A. At the same time that we hauled it in.
Q. How long after the collision took place?
A. They hauled in the cable as soon as the Sterling was clear of the Sif.
Q. Was that a half an hour afterwards, or how long?

A. About a half an hour afterwards.
Q. Did the Sif use that cable any more?
A. They used the end of it to tow up with.
Q. Was the Sif towed off the bar by that same cable?
A. Yes.
Q. Was the tow-boat that towed her off the bar with that cable ahead of her or astern of her?
A. She was ahead.
74 Q. Do you know how big that hawser was?
A. I cannot say exactly.
Q. Was it a good rope or a good hawser?
A. I cannot say that exactly.
Q. How new was it?
A. About nine months old.

Cross-examined by Mr. CRAIG:

Q. How long was it after the pilot cried out "let go" to the time that they did let go?
A. I couldn't say, because I didn't see it when it was let go.
Q. How long was it before the collision that he cried "let go?"
A. About two minutes.
Q. Can you say that the hawser was let go before or after the collision, no matter whether it was cut or let go?
A. I cannot say exactly.
Q. At the time of the collision, in what direction was the bow of the Sif pointing?
A. I think she laid west over.
Q. What do you mean by west over?
A. Heading west.
Q. How long before the collision was it that the Lone Star hauled on to the Philip?
75 A. About a quarter of an hour.
Q. How long had the Philip been trying to pull the Sif off of her groundings before the Lone Star came up?
A. It was a little over a quarter of an hour.
Q. How often did the Sif run aground prior to the collision?
A. I think she was aground twice.
Q. On which side of the channel did she first get aground?
A. I couldn't pay any particular attention, as I was engaged otherwise in the ship working.
Q. On which side of the channel was she aground the second time that she was aground?
A. I have no idea about it.
Q. Was she aground when the collision took place?
A. Yes, sir.
Q. On which side of the channel was she then?
A. I cannot say.

By Mr. HORNOR:

Q. At the time the pilot gave the order to let go how close was the Sterling to the Sif?
76 A. I think about four or five or six fathoms.
Filed by consent.

E. D. C.

Testimony for libellants.—Filed June 1st, 1874.

R. M. PETERSON & AL.,
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496. U. S. dist. ct.

Testimony taken by consent in the office of Messrs. Hornor & Benedict.

NEW ORLEANS, *April* 6, 1874.

Joseph P. Hornor, esq., for libellant'; E. D. Craig, esq., for claimants. Reported by C. W. Colton, phonographer, No. 16 Carondelet st.
N. O., May 30, '74.
To be filed by consent.
(Signed) E. D. CRAIG,
Proctor for Cl'm'ts.

ERICH PETERSEN sworn and examined on behalf of libellants. Mr. Carl P. Seymer acting as interpreter.

By Mr. HORNOR:

Q. How old are you?
A. Thirty two years old.
77 Q. What is your business?
A. Carpenter.
Q. Seaman also?
A. Yes.
Q. How long have you been following the sea?
A. Between four and five years.
Q. What ship are you on now?
A. Sif.
Q. How long have you been on the Sif?
A. Nine months.
Q. As what?
A. Carpenter.
Q. Were you on board of her on the 15' of March, 1874?
A. Yes.
Q. When she had the collision on the bar?
A. Yes.
Q. Tell us all about it.
A. We lifted anchor at Pilot Town to go out, and had to anchor towards the bar. Between eleven and twelve we hove up the anchor. Then the hawser got foul of the anchor, and while we were clearing that hawser we had to anchor again for a schooner that came in.
78 When we hove up again the vessel got aground and we took the hawser out aft.
Q. Who took the hawser out aft?
A. I don't know the name of the boat that took the hawser out; it was a tow-boat. While that tow-boat was pulling us off I saw the American ship coming.
Q. Do you know the name of her?
A. The Sterling.
Q. Where was she going?
A. She came from sea, bound up.
Q. Was she going with the wind, or how?
A. She had a tow-boat towing her.
Q. Towing her how; alongside, or how?

A. The tow-boat was forward, or ahead of her, towing her ahead with a hawser.

Q. What was the name of the tow-boat?

Q. Was it the Equator?

A. I think that is the name. When I saw the vessel was coming on her I ran away aft; when I got aft I saw the Sterling's hawser coming around over the stern; when I turned around the masts had gone overboard. The vessel was lying aground afterwards; she remained aground and kept moving a little all the time. The Sterling had broken
79 the gallant rail of the vessel and made a couple of holes in the coppers; the stem of the Sterling stove in the gallant rail. When the masts fell the gallant rail was broken on the starboard side, and the main yard was broken on the port side.

Q. What part of the Sterling struck the Sif?

A. The bowsprit.

Q. Did she strike it with her stem?

A. Yes, sir; the stem got on the Sif.

Q. What did it do to the Sif; what effect did it have on her?

A. It listed the Sif over badly, or strongly.

Q. Did it knock her off the ground?

A. No; she remained aground.

Q. What part of the Sif was struck?

A. The fore-topmast back-stays of the Sif were the first things that were struck by the bowsprit of the Sterling.

Q. What part of the Sif did the stem of the Sterling come against?

A. In the after part of the forechains, on the port side.

Q. Which way was the Sif heading at the time of the collision?

80 A. She laid about westward, heading westward.

Q. Was the Sif aground or afloat at the time of the collision?

A. She was aground.

Q. How long had she been aground at the time the collision took place?

A. I cannot say exactly.

Q. Was it more than half an hour?

A. It was not more than half an hour.

Q. How long was it from the time you first saw the Sterling until she struck her?

A. It was not many minutes; the only time we found out that the ship was going to strike us was only two or three minutes before.

Q. But I mean from the time you first saw the Sterling?

A. I was doing something else, and did not look after that until I saw that she was coming on us.

Q. How far did the Sif move, or did she move at all, from the time she got aground until the time she was struck?

A. I could not observe that she had moved anything.

Q. Where was the Sif bound?

A. Bound to Havre.

Q. From New Orleans, I suppose?

81 A. From New Orleans.

Q. Did you ever make a voyage to New Orleans before?

A. No.

Q. Do you know anything about how wide the channel was on the bar at the time of the collision?

A. No; I don't know.

Q. Do you know anything about whether at the time of the collision,

or about the time of the collision, anything happened to the hawser that was leading from the Sif's stern to the tow-boat?

A. I don't know anything at all about that.

Q. Did you examine the hawser afterwards?

A. Yes, sir; I saw it.

Q. Was it broken, or cut, or damaged in any way?

A. It looked like it had been cut.

Q. What kind of a cargo did the Sif have?

A. Cotton.

Cross-examined by Mr. CRAIG:

Q. On which side of the channel did the collision take place?

A. That I don't know.

82 Q. In what direction does the channel run?

A. I believe it runs north and south.

Q. What was the speed of the current?

A. I don't know.

Q. Was there a right smart current or not?

A. I' looked pretty strong.

Q. In what direction did the current run?

A. The current ran out.

Q. What direction is that? Is that east or west or north or south?

A. South, I believe.

Q. Did the vessel ground more than once that morning after she got on the bar?

A. I cannot say; I am not sure of it.

Q. Can you tell for certain whether the vessel moved from the time it went aground to the time the collision took place?

A. I cannot say for certain.

Q. Did you hear any orders in regard to the hawser, from the pilot on board of the Sif?

A. No; I didn't hear any orders.

Q. Where were you at the time of the collision; on what part of the vessel?

83 A. It was forward on the port side; but I ran aft to get out of the way.

Q. At the time of the collision, was the hawser of the Sterling cut or parted that you know of?

A. It was fast.

Q. Are you sure of that?

A. Yes, sir; I am certain it was fast.

Q. Was the hawser of the Sif cut or parted before the collision?

A. That I don't know.

Q. You don't know whether it was parted before or after the collision?

A. No, I don't know.

Q. Did the two vessels come together at right angles or at acute angles?

A. She came a little angling from the bow, but nearly square on.

Q. I understood you to say that the Sif was pointing to the west; in what direction at the time of the collision was the Sterling pointing?

A. She came from the southward.

Q. In what direction was she heading?

A. She came nearly square on.

Q. Was the Sterling more to the east of north or west of north when she struck? Was the bow of the Sterling at the time of the collision pointing to the west of north or to the east of north?

84

A. I cannot say positively.
Q. Was she pointing very nearly north?
A. That I couldn't say.

Redirect by Mr. HORNOR:

Q. You say that you are certain that the hawser of the Sterling did not part at the time of the collision; what makes you certain of that?
A. I saw that the hawser was taut after the collision.
Q. Where was the hawser of the Sterling when you saw it after the collision?
A. I saw the hawser when it came over the ship's stern.
Q. Then the hawser of the Sterling was on the deck of the Sif after the collision?

JORGAN JENSEN, sworn and examined, Mr. Carl P. Seymer acting as interpreter:

By Mr. HORNOR:

Q. How old are you?
A. I will be twenty-four years old the 20th of November.
Q. What is your business?
A. I am steward.
84*a* Q. How long have you been following the sea?
A. Seven years.
Q. What are you on now?
A. Steward on board the Sif.
Q. How long have you been on board the Sif?
A. Nine months.
Q. Were you on board the Sif when the collision took place, on the 15th day of March last?
A. Yes, sir.
Q. Where was the Sif when the collision took place?
A. Down on the bar.
Q. At the Southwest Pass?
A. Yes.
Q. Tell the whole story about the collision from the time she got aground on the bar. What time of the day was it that you got aground on the bar?
A. About half past eleven in the morning; towards noon we had to anchor once for a schooner, afterwards she got aground on the bar as I saw by the current on the bar. The tow-boat kept on towing at the stern of the Sif. Then came the large American ship in; I looked at
85 it for awhile, and then I had work to do in the galley, and had to go in. Then I heard some of the men on deck say that the vessel would come on us, that we couldn't go clear; then I came on deck to take a look; when I got on deck the ship was so close that I saw we had to get afoul, and I run aft. When I came aft I met the captain coming forward; then we both went aft together; when I came aft I saw the hawser of the Sterling taut to the tow-boat; the second mate was knocked down at the time, and I had to attend to the second mate with water to bring him to.
Q. How long had the Sif been aground on the bar before the Sterling struck her?
A. I haven't any idea.
Q. Can you tell whether it was an hour or less? Or half an hour or less or a quarter of an hour or less?

A. I am certain it was not an hour, but I paid no particular attention to the time.

Q. Was it a half an hour?

A. I cannot say the time because I paid no attention to it.

86 Q. How was the Sif heading when she was laying there on the bar?

A. She pointed westward with her nose.

Q. What was the name of the ship that struck her?

A. I didn't look after the name of the ship.

Q. Do you know the name of the tow-boat that was ahead of the ship?

A. No; I don't know.

Q. What damage was done to the Sif?

A. It tore down all the rigging.

Q. Did it break the masts or not?

A. Yes; they were both broken; the fore and main masts and mizzen topmasts.

Q. Where was the ship Sterling going?

A. I think she was bound up the river.

Q. Where was the Sif bound?

A. She was going over the bar into the sea.

Cross-examined by Mr. CRAIG:

Q. On which side of the channel did the collision take place?

A. I couldn't see anything but dirty water all around.

Q. When you first saw the Sterling or the American ship, where was the tow-boat that was in tow of the ship?

87 A. When I first saw the American ship the tow-boat was ahead of the ship, both pointing towards the Sif.

Q. Did the tow-boat pass the Sif safely?

A. Yes, sir; the tow-boat went clear herself.

Q. Under the stern or the bow of the vessel?

A. The tow-boat went astern of the Sif.

Q. How did you know that the Sif was aground?

A. Because she didn't swing towards the current when she was anchored.

Q. Was not a tow-boat attached to the Sif at the time of the collision?

A. The tow-boats were pulling the Sif astern.

Q. In what direction were they pulling the Sif?

A. They hauled at her astern.

Q. What was the direction of the compass that they were pulling her?

A. I don't know.

Q. Were they pulling up stream or down stream, or across the current?

A. Right athwart the current.

Q. In what direction does the current run?

A. The current runs southward.

Q. How many tow-boats were pulling on the Sif?

A. There was only one pulling at the time the collision took place.

Q. In what direction was it pulling as to the current? Was the

88 tow-boat pulling up against the current or across the current?

A. The tow-boat that pulled the Sif was cutting up against the current a little.

Q. Was the tow-boat pulling in the direction of the southeast or east or north?

A. I have no idea about it; it is not my business to know that.

Q. In which direction did I understand you to say that the Sif was pointing?

A. She laid westward.

Q. That is, her stem was pointing to the west and her stern to the east?

A. Yes.

Q. Tell me in what direction the hawsers were from the stern of the vessel?

A. I could not say exactly in what direction, but I saw the boat at her stern pulling.

Q. In what direction were the boats from the stern?

A. I cannot say.

Q. Were they on the north or south side of the Sif.

A. I saw the tow-boat a little on the starboard quarter.

89 Q. How much of the hawser was out between the Sif and the tow-boat?

A. It could not be a half a cable out.

Q. How much is a half a cable—how many fathoms or feet?

A. Say about 100 feet.

Q. Have you ever been to the port of New Orleans before?

A. That is the only time. I was here when the ship was up here this time.

NILS MARINNINS FREDRICKSON sworn and examined on behalf of libellants; Mr. Carl P. Seymer acting as interpreter.

By Mr. HORNER:

Q. How old are you?

A. Twenty-one years old.

Q. What is your business?

A. I am an ordinary seaman.

Q. How long have you been a seaman?

A. About five years.

Q. What ship are you on now?

A. Sif.

Q. How long have you been on the Sif?

A. About nine months.

Q. In what capacity?

A. Ordinary seaman.

Q. Were you on board of her on the 15' of March, 1874, at the

90 time of the collision?

A. Yes.

Q. State all that occurred that day.

A. It was about seven o'clock in the morning that we began heaving up anchor at Pilot Town. The tow-boat took us alongside and went downwards; we had to anchor once inside of the bar; we laid until very near half past eleven; then the tow-boat came and took us away; when we hove up the anchor the tow-line got afoul of the anchor; I was down and cleared the hawser from the anchor. I did not observe which way the vessel was going for awhile, and when I got the hawser cleared we had to anchor the vessel, because there was a schooner coming in. When we hove up the anchor the vessel got aground; we hauled in the hawser from forward and took the hawser aft; one boat kept pulling at her for about a quarter of an hour; then there was another boat that helped us, and both were pulling on her for about a quarter of an

91 hour; while they kept on pulling the ship was coming in.

Q. What ship? Do you know her name?
A. The Sterling.
Q. How was she coming in?
A. They were towing her in.
Q. Do you know the name of the tow-boat that was towing her?
A. I don't remember rightly.
Q. Was it the Equator?
A. Yes; that is her name.
Q. How was the Equator towing her—with a line alongside?
A. The tow-boat was ahead of the ship; the tow-boat went to the stern of the Sif, but the Sterling came around towards our fore-rigging; it took down the rigging for us; the masts went overboard and broke the side a little; the gallant-rail on the port side was broken in; when the masts fell down the starboard gallant-rail was broken; the tow-boat began pulling the Sterling astern to get them clear.
Q. State whether the Sif at the time of the collision was aground or afloat.
A. She was aground.
Q. How long had she been aground before the collision took place?
92 A. I calculate it was about a half an hour.
Q. State whether the Sif had moved from the time she went aground to the time the collision took place.
A. I didn't see that, as I paid no attention to it.
Q. Could she have moved far?
A. I couldn't say.
Q. How long was it from the time that you first saw the Sterling until the collision took place?
A. It was a few minutes.
Q. State whether, at the time the collision took place, the tow-line was fast between the Equator and the Sterling?
A. I was not aft, so I couldn't see it.
Q. Which way was the Sif pointing at the time of the collision?
A. I should judge she laid westward, judging by the sun.
Q. How was the Sterling pointing at the time of the collision?
A. She came right square on; she must have laid about north on; she came right on to our fore-rigging.
Q. Did the hawser of the Sif part at the time of the collision?
A. I don't know.
93 Q. Could anything have been done on board of the Sjf to avoid the collison?
A. No.
Q. Why not?
A. Because she laid aground.

Cross-examined by Mr. CRAIG:

Q. How long was the Sif aground before the collision?
A. About half an hour.
Q. Did she move at all at any time after she first went aground before the collision?
A. I don't know because I couldn't put any mark on it.
Q. Did she ground more than once?
A. I can't remember that she was aground more than one time.
Q. Can you state whether she was aground, and then got afloat again and then grounded again?

A. I can't remember it exactly.
Q. How many tow-boats were pulling on the Sif?
A. We had two at the last moments.
Q. What do you mean by the last moments? Do you mean at the time of the collision?
A. Yes, the last little while before the collision.
Q. What were the names of those two boats? Were they not
94 the Philip and the Lone Star?
A. Yes; the Lone Star and the Philip.
Q. Which was fastened to the Sif first?
A. It was the tow-boat that towed us out in the morning.
Q. Was that the Philip or the Lone Star?
A. I don't know exactly the names of the two tow-boats. I paid no particular attention to it.
Q. Do I understand that when you first went aground you had only one tow-boat fastened to the Sif?
A. We had only one tow-boat.
Q. How long was it before the collision that the second boat was attached?
A. About a quarter of an hour before.
Q. Are you sure it was as much a quarter of an hour?
A. I took it to be a quarter of an hour.
Q. Might it not have been 5 minutes?
A. It was about a quarter of an hour.
Q. How were they fastened to the Sif?
A. They had their hawsers out astern-aft.
Q. In what direction were thes' boats pulling the Sif?
A. I don't know exactly the direction that they wanted to pull the vessel. They pulled nearly right out.
Q. In what direction did the current run?
95 A. Right on the broadside of the Sif.
Q. In what direction?
A. South.
Q. What direction were they pulling—east, west, north or south? What point of the compass?
A. Northward.
Q. More to the east or to the west?
A. Eastward of north.
Q. How much eastward of north?
A. That I couldn't say particularly.
Q. What effect did the pulling of these two boats have upon the Sif? Did it move her in any degree?
A. Not that I couldn't observe.
Q. Are you certain that she did not move?
A. I couldn't say. I don't believe that she moved.
Q. Then it is a mere matter of belief?
A. I couldn't say for sure, because I had always something else to do, and couldn't pay any particular attention to it.
Q. Was the hawser of the Sif cut or was it parted, or either?
A. It looked like it had been cut when we hauled it in.
Q. Was it cut or parted before or after the collision?
96 A. When we hauled in the hawser, after the collision, it was cut.
Q. Was it before or after the collision that the hawser parted or was cut?
A. I didn't see until afterwards.

Q. Then you don't know whether it was before or after the collision?
A. I didn't see that.
Q. Did you hear any orders from the pilot to cut the cable?
A. I didn't hear and I didn't pay any attention to it.
C. What part of the vessel were you in at the time of the collision?
A. Just at the time that the Sterling struck I was in the port mizzen rigging.
Q. In what direction was the Sterling pointing when she struck the Sif?
A. She came directly for the fore-rigging square on.
Q. Did the Sif float immediately after the collision or was she still aground?
A. She laid aground after the collision.
Q. Was it a rapid current or moderate?
A. Yes, tolerable strong current.
Q. How many knots an hour was it running?
A. It may be two or three miles an hour, I cannot say exactly.
97 Q. How wide is the channel at the place where the collision was?
A. I don't know.
Q. Which side of the channel did the collison take place, east or west?
A. That I don't know exactly.
Q. Have you ever been to this city before?
A. Never.
Q. Then you are not well acquainted with the bar of the Mississippi River?
A. No.

Redirect by Mr. HORNOR:

Q. How old was that hawser that the Sif had aft of the tow-boat?
A. About 9 months old.
Q. Was it in good order or not?
A, I never have tried it, but I think it was good.
Q. Did you use the hawser again after the collision?
A. Yes, we used it to tow up with.
Q. What was the size of that hawser?
A. I don't know exactly how long it is.
Q. How large around is it?
A. About 9 inches.
Q. How fast was the Sterling going when she struck the Sif?
A. I didn't pay any attention to it and couldn't say exactly.

By Mr. CRAIG:

98 Q. Was the hawser of the Sterling made out of hemp or manilla?
A. That I paid no attention to.
Q. Was the hawser of the Sif cut or parted?
A. After my judgment it was cut.
Q. You don't know positively whether it was cut or parted?
A. It is impossible for it to have broken so short off, it must have been cut.
Q. Did you see it cut?
A. No.
Q. Was the hawser of the Sterling cut, or did it part at or before the collision, or after it, or did it part at all?

A. That I don't know. All I know is that I saw the line standing taut between the tow-boat and the Sterling after the collision.

Q. How long after the collision was that?

A. The line hopped over the stern of the Sif, and I saw it stand taut.

Q. Do you know whether the cable or the hawser of the Sterling was cut, or whether it parted or not?

A. I don't know.

99 Q. What was the hawser of the Sif made of? Was it hemp or manilla?

A. Hemp.

PETER GUNDERSEN, sworn and examined on behalf of libellant, Mr. Carl P. Seymer acting as interpreter.

By Mr. HORNOR:

Q. How old are you?

A. Twenty years the twentieth of this month.

Q. What is your business?

A. Seaman.

Q. How long have you been a seaman?

A. Three years.

Q. What vessel are you on now?

A. The Sif.

Q. How long have you been on board the Sif?

A. Nine months.

Q. Were you on board the Sif on the fifteenth of March last, when the collision took place?

A. Yes, sir.

Q. What time of the day was it when the collision took place?

A. It was just about 12 o'clock.

Q. Where was the Sif then?

A. Aground, on the bar.

Q. What bar?

100 A. The bar that belongs to New Orleans.

Q. How long had she been aground before the collision took place?

A. I don't know exactly.

Q. Was it an hour or half an hour, or five minutes?

A. About half an hour's time.

Q. Where was the Sif bound?

A. To Havre.

Q. What was the name of the vessel that struck the Sif?

A. I couldn't say exactly the name now.

Q. Was it the Sterling?

A. Yes, the Sterling.

Q. Was the Sterling going on by herself, or did she have a tow-boat with her?

A. She had a tow-boat to her.

Q. How was the tow-boat fastened to her? Was it alongside, or with a line ahead?

A. With a line ahead towing her.

Q. What was the name of the tow-boat?

A. That I don't know.

Q. Was it the Equator?

A. That was the name.

Q. How long was it from the time you first saw the Sterling and the Equator until the Sterling struck the Sif?

A. Two or three minutes.

101 Q. Where were the Equator and the Sterling coming from?

A. Coming from outside.

Q. Bound up the river?

A. I don't know where she was bound to, but I believe she was bound upwards.

Q. Which way was the bow of the Sif pointing at the time of the collision?

A. She laid about westward on.

Q. Was the Sif aground or afloat at the time of the collision?

A. Aground.

Q. What part of the Sterling struck the Sif first?

A. The bowsprit and the jib-boom.

Q. Whereabouts did she strike the Sif?

A. The bowsprit took the foremast back-stays.

Q. What part of the hull of the Sif was struck?

A. The bow of the Sterling struck the Sif.

Q. What part of the hull of the Sif was struck?

A. In the after part of the forechains.

Q. What damage was done?

A. It tore down the whole rigging fore and aft.

Q. Of what?

A. Of the Sif.

Q. Did it hurt the masts any?

A. Yes; both masts.

102 Q. Which masts?

A. The fore and main masts.

Q. How was the Sterling's bow pointed at the time of the collision?

A. That I don't know.

Q. Did the Sterling come bow on or come at an angle?

A. That I don't know.

Q. What became of the Equator at the time of the collision?

A. She went around the stern.

Q. What stern?

A. Around the stern of the Sif.

Q. Did you see the hawser that was connecting the Equator with the Sterling?

A. Yes, I saw that.

Q. Was it at the time of the collision taut, or had it been cast loose?

A. It was fast.

Q. Did the hawser touch the Sif?

A. It came up around her stern.

Q. Did it come up on top of the deck or did it go under?

A. It came up over the vessel, the Sif?

Q. Did the Sif have a tow-boat hitched to her?

A. Yes.

Q. W'ere was that hawser fastened on the Sif?

A. It was out at the stern.

103 Q. Was that tow-line or hawser cut *cut* or did it part at the time of the collision?

A. That I don't know.

Q. Did you see the hawser after the collision?

A. Yes; I saw it.

Q. Had it been cut or had it been broken?
A. From what I could see it had been cut?
Q. How old was that hawser of the Sif?
A. Nine months old.
Q. Was it hemp or manilla?
A. Hemp.
Q. How big around was it?
A. I didn't measure it. I don't know.
Q. I understand you to say that the hawser of the Sterling that was was fastened to the Equator got upon the deck of the Sif after the collision?
A. Yes; I did so.
Q. How did it get off there?
A. They cut it on board of the tow-boat that hauled the Sterling.
Q. Did you see that.
A. Yes; I saw that.
Q. Was that after the collision?
A. Yes.
Q. How long afterwards?
A. Three or four minutes afterwards.
104 Q. That hawser of the Sif, was it a good hawser or a bad hawser?
A. It was a good cable.
Q. Was it used afterwards?
A. Yes; we have used it once.
Q. What did you use it for afterwards?
A. We have used it to tow up with—tow back to town.

Cross-examined by Mr. CRAIG:

Q. How high was the stern of the Sif out of the water at the time?
A. I don't know.
Q. Was it not as much as fourteen or fifteen feet?
A. I paid no attention to it.
Q. You ought to know.
A. I cannot say exactly how high it was.
Q. How high was it to your best judgment?
A. I can put no measurement on it, because I don't know it.
Q. Did you ever draw up a bucket of water from the stern?
A. Yes.
Q. How much rope did you let out usually?
A. Between two and three fathoms, I think.
Q. Would not fifteen feet be very near the distance? Was it not about two and a half fathoms?
105 Yes; about that.
Q. How many feet make a fathom?
A. There is about six feet in a fathom.
Q. How many times did the Sif get aground before she collided?
A. I don't know that she had been aground more than that time.
Q. Was the Sif, from your own knowledge, aground more than once or not; do you know whether she was aground more than once or not from the time she first went aground to the time of the collision?
A. That I don't know certainly.
Q. Do you know whether she moved or not after she first went aground?
A. She laid, and was swinging a little, but she was aground all the time.

Q. Do you know whether the Sif moved or not from the time she went aground to the time of the collision? Answer it yes or no, or that you don't know.

A. I don't know that I can say.

Q. You are under oath now, and you swear positively that the Sif never moved from the time she went aground to the time of the collision; that she never moved a particle?

106 A. I can swear to that.

Q. On which side of the channel was the Sif?

A. That I don't know.

Q. In what direction was the current running?

A. We laid right athwart the current.

Q. In what direction did the current run; north, south, east, or west?

A. I don't know. I was not aft at the compass, and I couldn't say exactly.

Q. Answer my question, whether you know or not?

A. I don't know.

Q. In what direction was the Sif pointing?

A. She laid westward.

Q. How do you know that she was laying westward?

A. I could judge it by the current.

Q. Now, you have just said that you did not know in what direction the current ran, how can you judge by the current the direction the vessel laid if you did not know the direction that the current ran?

A. Once, during the time that I was aground, I was so far aft that I saw the compass and that it pointed westward; but the exact

107 point of the compass I cannot say.

Q. Don't you know that the current ran towards the south?

A. No; I haven't any idea of that.

Q. If the Sif pointed towards the west, and she lay across the current, would not the current be in a southerly direction?

A. The current ran eastward. I think that is the way it ran.

Q. Do you know much about the current on the bar of the Mississippi River?

A. I don't know anything about it.

Q. Was the Sterling coming with the current or against the current when she collided with the Sif?

A. Against the current.

Q. How did she strike the Sif?

A. She struck in the after part of the fore-rigging?

Q. Was she square on or angling?

A. That I don't know.

Q. Did you see the two vessels collide, or in the act of colliding?

A. I didn't see exactly when the Sterling struck her, but I saw when the rigging fell down.

Q. On what part of the vessel were you?

A. I was forward.

Q. What were you doing?

108 A. I stood forward of the forecastle, and saw her coming.

Q. Were you frightened any?

A. Oh, far from it.

Q. Are you certain whether the Sif was aground at the very time of the collision, or whether she was afloat?

A. That I am certain of, that she was aground.

Q. Did you hear any order to cut the cable of the Sif?

A. I didn't hear that.
Q. Was it cut, or did it part before or after the collision?
A. It was not parted or cut before the Sterling came on us.
Q. How long after the collision was it?
A. That I don't know.
Q. Do you know whether it was before or afterwards?
A. I am not certain.
Q. Was the hawser of the Sterling cut or parted after or before the collision?
A. It was cut a few minutes afterwards.
Q. Was the Equator higher up out of the water than the stern of the Sif?
A. The Sif was the highest.
Q. How much higher was the Sif than the point w'ere the cable was fastened to the Equator?
A. That I cannot say. I haven't got an idea of it.
109 Q. Was it a fathom's distance?
A. I could'nt tell positively.
Q. How do you know that it was higher?
A. I could see it.
Q. If the stern of the Sif was higher than the point of the Equator, where the cable was fastened, how was it that the cable of the Equator got over the stern of the Sif?
A. That I don't know; I could'nt tell.
Q. Does the stern of the Sif have a steering-wheel?
A. Yes; there is a wheel there.
Q. Was there anybody standing there at the time?
A. Yes; there was a man at the wheel.
Q. Did the hawser of the Equator interfere with him in any respect?
A. It was another man that it struck.
Q. What did?
A. The Sterling's hawser touched another man.
Q. Where did that man stand?
A. He stood on a little quarter-deck that was aft there. There is a brass outrigger out that it touched.
Q. Did it break anything?
A. It was bent up, I saw that, but I don't know whether it was broken up or not.
Q. Was the hawser taut or not?
110 A. It was taut.
Q. Did it hurt this fellow at the wheel any?
A. No; it struck another man, but it didn't hurt him.
Q. How far was the other man from the wheel?
A. He stood out on the quarter.
Q. How far from the man at the wheel?
A. Two or three feet.
Q. How did the two vessels, the Sterling and the Sif get apart after the collision?
A. From what I saw the tow-boat took hold of the Sterling and hauled her off.
Q. How many tow-boats were hauling on the Sif at the time of the the collision?
A. There was one in the beginning, and there came another after awhile.
Q. Do you know the name of them?
A. No.

Q. Were they not the Philip and the Lone Star?
A. I don't know the names.
Q. How long was it that the second one came after she was aground?
A. About a quarter of an hour afterwards.
Q. How long was it before the collision that the second one came?
A. That was about a quarter of an hour too.
111 Q. To what part of the Sif were they fastened?
A. Fastened to our cable.
Q. What portion of the vessel?
A. They were fast by the hawse-pipe, aft, on the port side near the stern.
Q. On the port side or the starboard side?
A. On the port side.
Q. Were they pulling against the current, or with the current or athwart the current?
A. I couldn't say exactly; I paid no attention to it.
Q. I understand you to say that the vessel was laying east and west pointing towards the west?
A. Yes, sir; I said that.
Q. Were they pulling towards the north or towards the south?
A. I cannot say exactly, but we hauled out over.
Q. What do you mean by "out over"?
A. Out towards the sea.
Q. Wit' the current or against the current?
A. That I don't know.

Redirect by Mr. HORNOR:

Q. Were those tow-boats that were pulling the Sif to the starboard or to the larboard of her?
112 A. I don't recollect which exactly.
Q. Which stood highest out of the water, the Sterling or the Sif?
A. The Sterling.
Q. How much higher?
A. That I cannot say.
Q. Where did the jib-boom of the Sterling touch the Sif?
A. I don't know; I cannot say exactly.
Q. What kind of a stern did the Sif have, was it square or round?
A. It was rounding.
Q. Was not the hawser of the Sterling stopped by the mizzen sheets of the Sif?
A. The hawser struck against the brace davit.

By Mr. CRAIG:

Q. Who have you been talking with about this matter since the collision?
A. I haven't spoken to anybody.
Q. No one has said anything to you about it.
A. No, sir.

To be filed by consent.

E. D. C.

113 *Testimony for claimants.—Filed by consent June 1st, 1874.*

U. S. district court, in admiralty, for the district of Louisiana.

R. M. PETERSON ET AL.
vs.
THE SHIP STERLING AND THE TOW-BOAT Equator. } No. 10496.

Testimony taken by consent, April 24th, 1874, at No. 13 Commercial Place.

Present Joseph P. Hornor, esq., representing libellant, and E. D. Craig, esq., representing claimant.
The affidavit before commissioner waived.

WM. B. TURLEY, sworn an' examined for claimant:

Q. What is your occupation?
A. Pilot on board the steam tow-boat Equator.
Q. How long have you been engaged in the waters of the Mississippi as a seaman?
A. About ten years.
114 Q. Were you present on board the Equator on or about the 15th of March last?
A. Yes.
Q. What were you doing?
A. I was piloting.
Q. Do you remember bringing the Sterling in from the sea at that time?
A. Yes; brought her from her anchorage in.
Q. Commence and give your statement in your own words, commencing from the time you first saw the bark Sif up to the time of the collision.
A. In the forenoon, between 10 and 11 o'clock I think it was, to the best of my knowledge, the tow-boat Philip had the bark Sif in tow inside the bar, and in turning around the bark got too far to the westward and took the bottom. We were outside the bar at the time with the Equator. About twenty minutes to twelve o'clock we had the Sterling in tow, and came up to the bar. I suppose that might be about one o'clock. The time we got to the sea buoy outside the bar, the bar all clear, the buoys visible, the bark Sif laying on shore above the upper westblack buoy, the tow-boat Philip pulling at her.
115 We came along with the Sterling, and just as we got abreast of the bark Sif she commenced starting off the bottom. We hauled to the eastward so as to avoid any collision; the ship Sterling took the bottom. The bark Sif having sternway on her, went across the ship's Sterling's bow. We cut the ship's hawser by order of Captain Warren, to avoid all damage. Then we laid still for a few moments and went back to get the Sterling.
Q. Was that before or after the collision that you went back to get to the Sterling?
A. After the collision we went back to the Sterling.
Q. When was the ship's hawser cut, before or after the collision?
A. Before the collision.
Q. How long before?
A. I should say five minutes before the collision.

Q. What was the object in cutting the hawser?

A. To save any damage. We might have cut the vessel right in two. Might have dragged the ship up on the bark and hit her amidships and damaged her more.

Q. What direction was the bark Sif pointing at the time when you first saw her aground?

116 A. She was laying her head to the westward and her stern to the southward and eastward touching on the southward and eastward direction.

Q. What vessel was pulling on her first?

A. The Philip.

Q. How long before the collision did the tow-boat Lone Star fasten on to her?

A. About an hour, I think; between three-quarters and an hour. I don't know exactly to a minute.

Q. At the time of the collision was the hawser of the Sif fastened to the tow-boat or was it cut or parted? Was the hawser fastened to the tow-boats?

A. Certainly it was fastened to the tow-boats.

Q. That is, the hawser of the Sif?

A. The hawser of the Sif was fastened to the Philip, and the Lone Star had a hawser to her. The bark's hawser was made fast to the Philip.

Q. What was the direction of the current at that place?

A. Running about southwest.

Q. How wide was the channel?

A. The channel was wide enough for a ship and two boats to come out, and on some parts another vessel could come in on either side.

117 Q. Did you see any vessel at that time pass the Sif while she lay aground?

A. The Lone Star towed a vessel in apast her before the collision.

Q. Was that while the Philip was pulling on her?

A. While the Philip was made fast to her. I don't remember now what ship that was.

Q. At the time of the collision was or was not the Sterling aground?

A. Yes; she was aground.

Q. What was the cause of her getting aground?

A. We towed her aground. The Equator towed her to try and avoid and clear the bark.

Q. Could there have been anything done on the part of the Equator to have avoided the collision?

A. If we had not let go her hawser we might have straightened the ship up and & have done great damage. By us cutting the hawser the ship stopped where she was.

Q. Could the Equator, under the circumstances, have prevented the collision?

A. No.

Q What could the Sif have done to have prevented the collision?

A. She could have remained where she was.

Q. Was the rudder of the Sterling hard aport at the time?

118 A. She was following me, and I was hard aport on board the Equator, and she was following after me.

Q. But at the time of the collision she was not moving, I understood you to say?

A. That is the Sterling; she was not moving.

Q. What is the draft of the Equator?

A. At one time twelve and a half feet, according to the coal that is in her.

Q. How far was it from the point where the Sif first grounded to the point where the collision took place, from where you first discovered the Sif with the Philip to where the collision took place?

A. It might be about fifty yards.

Q. How far was the Sif from the Sterling before you began to discover that a collision would take place?

A. I don't know exactly.

Q. Give an estimate, as near as you can.

A. I suppose it must have been between eighty and ninety yards.

Q. What was the length of the hawser between the Sterling and the Equator?

A. We had a pretty long hawser out, because there was a
119 pretty heavy jump of sea outside. I should say about sixty fathom; somewhere about that.

Q. Did you go as far to the eastward as it was possible for you to go?

A. Yes; we could not go any further to the eastward, where she run on the bottom.

Cross-examined:

Q. What time of the day was it that you picked up the Sterling?

A. I told you about twenty minutes to twelve o'clock, I think, in the daytime.

Q. Broad daylight?

A. Noon-time.

Q. Clear?

A. Yes.

Q. How much wind was blowing?

A. A nice breeze.

Q. From where?

A. About south, I should think.

Q. Where did you pick up the Sterling?

A. To an anchor off the bar.

Q. How long had she been there?

A. I suppose she may have been there 24 hours. I am not accustomed to keeping the run of vessels as they come.

Q. Are you sure she was there twenty-four hours?

A. I am not positive.

Q. How long will you be positive she was there?

A. Two hours.

120 Q. Had not you seen her there the day before?

A. No; I had not. I did not take that much notice. I have other business to attend to.

Q. How far did you have to run before you came to the place where the Sif was, from the place the Sterling was at anchor outside the bar?

A. About two miles and a half; between that and three miles.

Q. How long did it take you to run that distance that day?

A. I took me about, I suppose, three-quarters of an hour, but you could run it in less time than that.

Q. I want to know the time you did run it in that day.

A. We took hold of her about twenty minutes to twelve, and at one thirty the collision occurred, exactly to the minute; that is the time. I did not take notes exactly to a minute of the time that I run with the Sterling, because we have got a little more to do.

Q. Did I understand you to say that at the time of the collision the Sterling was hard and fast aground?

A. Yes; hard and fast on the bottom.

Q. She was not moving in any direction?

121 A. She was not.

Q. How wide is the channel at that place?

A. It is wide enough for a tow to pass with a ship and two boats and for another steamer to pass outside her.

Q. How wide was it that morning at the time the collision took place in feet?

A. I cannot tell you that. It is impossible for me to tell you that, or any other man, because it shifts.

Q. What part of the Sterling struck the Sif?

A. Her jib-boom.

Q. What part of the Sif was struck?

A. Her foremast.

Q. At the time of the collision where was the Equator?

A. She was between the Sif and the tow-boats.

Q. At the moment of the collision was not she underneath the Sif's stern?

A. No.

Q. Did she pass the Sif's stern afterwards, after the collision?

A. No.

Q. Did she pass under the Sif's stern at all?

A. No; she did not pass underneath the Sif's stern at all.

Redirect:

122 Q. Had the Lone Star and Philip ceased their efforts upon the Sif, could not the Equator have passed with safety with the Sterling?

A. Yes, sir; the Lone Star passed previously, before that, with a ship clear of everything amid channel course.

M. B. WOOLFLEY sworn and examined for claimant:

Q. What is your business?

A. Engineer on board the Equator.

Q. Were you on board the Equator about the middle of March last?

A. Yes.

Q. Commence and give us the history of all this affair in regard to the collision from the time you first saw the Sif on that day up to the time of the collision. Begin back in the morning and come on up.

A. I don't recollect what time of the morning it was she got ashore, but I saw her lying there the best part of the day, I should judge, and several vessels, I could not tell how many, came in while she was lying there. The Lone Star, I think, towed in one just before we

123 came in with the Sterling, and when we came in with the Sterling the Philip was pulling at her and the Lone Star came in and got hold of her while we were coming in with the Sterling after we had entered the channel.

Q. In what part of the channel was the Sif?

A. She was on the west side of the channel, on what we call the west lump.

Q. How was she pointing?

A. I don't know the course by compass, but about kind of across what we might call the channel, but she was not in the channel.

Q. Were the tow-boats pulling at her stern?

A. Yes; pulling at her stern to pull her off.

Q. In what part of the channel were you at the time?
A. Coming right up in the middle of the channel.
Q. That was whilst she was stationary you were coming into the channel?
A. Yes.
Q. How long was it before she began to move or did she move at all?
A. I could not see her moving when we first came in, not until we got very nearly abreast of her.
124 Q. What did you do when you saw her move?
A. Put on all steam to get out of her way.
Q. Did you go to the east or to the west?
A. I could not tell for I was in the engine-room, but I think we went to the east to avoid her running into us.
A. On what?
A. On what we call the east lump.
Q. How long was it after she run aground that the collision took place?
A. I should say about five minutes.
Q. Was the Philip and the Lone Star pulling at the Sif at the time of the collision?
A. No; the hawser had parted; she had started aft and the hawser parted, I believe; I was not able to see.
Q. Do you know whether it was parted or cut?
A. I could not say.
Q. Then did or not the current drive her down in the direction of the Sterling?
A. I suppose the current and the force of the boats pulling at her run her right across the channel.
Q. Was the Equator's hawser cut before the collision?
A. Yes.
Q. About how long?
A. I could not say exactly how long.
Q. As much as five minutes, do you think?
125 A. I think it was.
Q. What was the object of cutting the Equator's hawser?
A. To stop the 'adway of the vessel, to try to avoid a collision, and the ship sheered to the east.
Q. What would be the effect if you had not cut the hawser?
A. I suppose she would run right over the bark, that is the way the bark was coming across the channel right under the bows of the Sterling.
Q. Suppose the Philip and Lone Star had ceased their efforts while you were passing by could the collision have been avoided?
A. I think it could. If they had not pulled that way the vessel would not have started off, and we would have plenty of room to pass. There was plenty of room for vessels to pass there.
Q. Is it customary for vessels under the same circumstances, when vessels are aground, to pass?
A. Yes; they do it very frequently.
Q. Then you did nothing unusual in attempting to pass the Sif?
A. We did not.
Q. Do you know the width of the channel at that place?
126 A. No.
Q. What time of the day was it that the collision took place, as near as you can tell?

A. I cannot say exactly what time, but some time in the afternoon.
Q. Was it near noon or near night?
A. It was towards night.
Q. Was the day clear?
A. Yes.
Q. Cannot you come nearer the hour than what you have done?
A. No; I cannot. I don't remember the hour, in fact I did not take any notice of what the hour was. I know it was very near dark when we got up to the station.
Q. But I am speaking of the collision; when was that?
A. I could not say exactly what time it was. I never noticed the time.
Q. Could the Equator have done anything to avoid the collision?
A. No; I think not. Anyway, in the position we were placed we could not get out of the way.
Q. Was there anything the ship Sterling could have done?
A. I think not; she run ashore; she could not get further; she
127 could go no further to the eastward. The position she was in at the time in that part of the channel she could go no further to the eastward.

Cross-examined:

Q. I understand you to say when you first picked up the Sterling she was at anchor outside the bar?
A. Yes; out to sea.
Q. How long had she been there?
A. I could not say how long she had been there. I never noticed when she came there. She was there since daylight. The first I saw her was daylight in the morning.
Q. The time you took up the Sterling the Sif was on the bar?
A. Yes; that was in the afternoon we took her up.
Q. The Sif was on the bar the same time when you took up the Sterling?
A. Yes.
Q. You say that a vessel passed her with the Lone Star while she was laying there?
A. Yes, sir.
Q. What kind of a vessel was it?
A. I think a ship.
Q. Was not it a three-masted schooner?
A. No; I think not. I think it was a ship.
128 Q. How far was the point where the Sterling was lying at anchor distant from the bar?
A. I could not say exactly how far it was.
Q. About?
A. It may have been two; it may have been one mile. I cannot say, for I am no judge of the distance.
Q. How long did it take you to run from that place to the bar?
A. I don't know. It could not have taken more than fifteen or twenty minutes I suppose, or half an hour at the furthest.
Q. I understand you to say that just before the collision the ship Sterling was run aground.
A. Yes.
Q. Whereabouts?
A. To the eastward of the channel.
Q. Was she moving at the time of the collision?

A. No, she was stopped; as far as I could see from the position I was in on the boat.

Q. Where was that?

A. In the engine-room.

Q. From that position you saw that she was hard and fast?

A. Yes.

129 Q. How far was that spot where she was hard and fast aground, at the time the collision took place, distant from the Sif, where the Sif was aground.

Ans. It may be three or four lengths of the ship.

Q. Did she go aground before the Sif commence' moving or after?

A. After the Sif commenced moving.

Q. Did the Sif move very rapidly?

A. Yes; she did.

Q. At the moment of the collision, where was the Equator?

A. She was ahead of the ship, that is, she had let go of the ship; I don't know whether she cut the rope or let it go.

Q. Where was she?

A. In the channel.

Q, I mean the Equator.

A. Yes.

Q. Do I understand you to say that the Sif passed between the Equator and the Sterling?

A. Yes; we were ahead of the ship.

Q. And she passed between you?

A. We had got by her when she cut across the channel.

Q. How did you get by her; run right straight on; did not change your course at all?

A. We sheered to the eastward to get out of her way, when

130 we saw her coming.

Q. How close did you pass to her?

A. I don't know; I was busy in the engine-room trying to get more steam to get out of her way; I could not say how close we were to her.

Q. You saw the collision?

A. I saw the bark when she went under the ship's bows; we were far enough ahead then; I could see out of the door of the engine-room; the door of the engine-room is right aft.

Q. What part of the Sterling struck the Sif?

A. I could not say; the jib-boom took the mast out of her.

Q. What part of the Sif was struck?

A. I could not see from where I was.

Q. After the collision had taken place, did you go to take the Sterling away?

A. The Lone Star took her away; we went to go to her and the Lone Star got alongside of her before we could get there.

Q. Do you know whether she was afloat or aground after the collision took place?

A. No; I cannot say.

Q. Do you know how wide the channel was at that point?

A. No, I could not say how wide the channel was.

Q. How much water did the tow-boat draw?

131 A. I think she drew about ten and a half or eleven feet; I am not certain.

Q. How much did the Sterling draw?

A. I don't know.

Q. Was the Sterling loaded or in ballast?

A. I think she was in ballast.

Q. At the time just before the Sterling run aground as you were on the east side of the channel, how fast were you going?

A. I could not tell exactly how fast.

Q. Four miles an hour?

A. I suppose we were going more than that; may have been; I could not tell exactly; I had no way of telling.

Q. Was the hawser of the Sterling cut before the collision took place?

A. Yes; I could not tell whether cut or let go.

Q. Was it one or the other?

A. It was one of the two.

Q. How long before the collision took place?

A. I don't suppose more than five minutes; may have been a little less; I could not say exactly.

Q. Did anybody give any order to let go that hawser or cut it?

A. I think I heard Captain Warren up on deck halloo to let it go.

Q. How long was that before the collision?

A, I suppose five minutes.

132 Q. Was that before or after the Sterling got aground?

A. Before she got aground.

Q. A little while before the Sterling got aground, did not you have the order given you from Captain Warren to put the vessel full speed?

A. No; no order given to me at all.

Q. From that time you took her up from the anchorage?

A. No.

Q. Have not you told somebody so?

A. No.

Q. About the cable of the Sif—you said something about that being cut or parted?

A. I only heard it had parted; whether it had or not I could not say; that was hearsay; I don't know whether it had or not.

Q. Did you hear any orders given from on board the tow-boat Equator to the people on board the Sterling?

A. No.

Q. Which side of the Sif was the Equator when you saw the collision take place?

A. She was to the eastward.

Q. To the starboard or port side of the Sif at the time of the collision; the Equator I am speaking of?

133 A. The bark was on the starboard side.

Q. On which side of the Sif was the Equator?

A. Right ahead, if I should judge; not on either side, because the bark run in *in* under the ship and were *were* right straight ahead of the ship.

Q. Then you had gone around the Sif's bow?

A. No, we went past her stern, and she shot across the channel as we were going by.

Q. The moment of the collision were you on the starboard side of the Sif, or on the port side of the Sif?

A. She was lying with her bow pointed towards our starboard side.

Q. Where were you?

A. We were in the channel.

Q. What relation stood you in to the Sif—on which side of the Sif were you, port or starboard?

A. I could not say on either.

Q. Were you dead astern?

A. No; our stern was pointed to about midships; the starboard side of his midships.

Q. At the time the collision took place?

A. Yes.

Q. Was your hawser dragging in the water at that time?

134 A. Do you mean when the collision took place?

Q. Yes.

A. I could not see the hawser at all.

Q. Did you see your hawser on the Sif's deck?

A. No; the position I was placed in I could not see that.

GEORGE H. CLEMENTS sworn and examined for claimant:

Q. What is your businesss?

A. I follow the sea.

Q. Are you acquainted with the tow-boat Equator?

A. Yes.

Q. How long have you been on the Equator?

A. About five months and a half.

Q. What is your business there?

A. Mate.

Q. I want you to commence and tell us the history of what took place at the bar, so far as the collision between the Sterling and the Sif were concerned. Commence in the morning when you first saw the Sif; tell us what you saw up to the moment of the collision?

A. I recollect nothing about it until the time of us coming in—

135 towing in.

Q. What time in the month was that?

A. I think the 15th of February.

Q. Was it February or March?

A. February, I think. No, it was the 15th of March—Sunday.

Q. The collision that we are talking about took place in March.

A. It was Sunday, the 15th of March.

Q. Tell us what took place that day.

A. We were towing in the ship Sterling from sea in towards the station.

Q. About what time of the day was that?

A. About half past eleven or twelve o'clock when we took hold of the Sterling to come in over the bar.

Q. What time did you discover the Sif?

A. I think it was about half past twelve.

Q. Where was she?

A. Ashore at the west bank.

Q. Were there any tow-boats about her?

A. Yes, the Philip and Lone Star; the Philip ahead of her, and the Lone Star ahead of the Philip.

Q. What were doing in the channel?

A. Coming in with the ship Sterling.

Q. Trying to pass them?

A. Yes; in the middle of the channel, as near as we could go.

136 Q. How long was it after you had got into the middle of the channel before you saw the Sif move, or did she move at all?

A. When we entered into the channel, coming in, the Sif was then ashore. We were nearly opposite her when she started off.

Q. Then she moved?

A. Yes.

Q. What did you do then?

A. We hauled to the eastward and the ship struck ground; she was struck before ever the Sif came in to her.

Q. Was the Sif moving at that time?

A. Yes.

Q. Did the Sif strike the Sterling?

A. The Sterling's jib-boom. The Sterling had struck on what we call the east lump, and the Sif came astern the Sterling's jib-boom; took her somewhere about her main-topmast or top-gallant back-stay, or something like that.

Q. At time of the collision the Sif was moving?

A. Yes.

Q. What did the Equator do—did it continue to pull the Sterling?

137 A. No; as soon as we saw the Sif was coming right on to us we cut the hawser immediately, but the Sterling had struck about the same time we cut the hawser. I suppose she was off a space of a hundred and fifty feet; she struck what we call the east bank; the east side of the channel.

Q. How long after you cut the hawser did the Sif run into the Sterling?

A. A space of may be a few minutes, probably five.

Q. What was the object of your cutting the hawser of the Equator?

A. We were attached to the Sterling coming up stream, and there was going to be a collision when the Sif was coming for her, we cut our hawser so we would get clear.

Q. Would the consequence be more disastrous or less, if you had not cut the hawser?

A. More; we would have sunk and drowned with the other boat.

Q. Could you have gone to the westward of the Sif?

A. No; our ship struck to the eastward.

Q. Was it possible for a vessel to pass the Sif, while she was ashore?

A. It was, for one coming down and another up.

138 Q. Did you see any vessel pass her?

A. Yes; we took out a tow, a bark, that morning, and they brought in two or three, and the Rochester took down a schooner, I think, and the Lone Star took out a tow.

Q. Had the Lone Star and Philip ceased their efforts pulling upon the Sif, could you not have passed her in safety?

A. Yes; I think so.

Q. About what time did this collision take place?

A. I think it was about twelve or half past twelve, some time about that.

Q. What sort of a day was it; was it cloudy or clear, or what?

A. It was overcast; the wind to the southward and eastward.

Q. No difficulty in seeing objects around you.

A. No.

Q. In what direction does the current run there?

A. I guess about southwest.

Q. More south or southwest?

A. May be a little more south than southwest, southwest by south, something like that.

A. A pretty swift current?

139 A. Yes, strong; about the rate of four or five knots.

Q. Could the Equator have done anything to have avoided the collision?

A. No; nothing.

Q. Could the Sterling have done anything?

A. No; the Sterling was in tow with us.

Cross-examined:

Q. When you picked up the Sterling that morning she was at anchor; how long had she been at anchor?

A. I think she arrived Saturday night. I never saw her until Sunday morning; she came in some time during the night, but I will not be certain, but she was there Sunday morning; I think arrived during the night.

Q. How far was it from the place she was anchored to the bar?

A. I suppose it was a mile; it was outside the sea-buoy, somewhere about a mile, perhaps a little more.

Q. How long did it take you to run that distance from where the Sterling was at anchor, to the bar?

A. It might be three-quarters of an hour; we never notice anything like that. It may have been an hour or an hour and a quarter, something like that.

140 Q. When you started with the Sterling was not the Sif on the bar?

A. Yes; she was ashore.

Q. Which way was her head pointing?

A. She lay as near as I could judge very near east and west.

Q. With her bow pointing to the westward?

A. Yes; and her stern to the eastward.

Q. You say at the time the collision took place the Sterling was hard aground?

A. Yes; she was aground.

Q. She was not moving?

A. She was not.

Q. How long had she been hard aground and not moving before the collision took place?

A. I suppose five or ten minutes, along there; three to ten minutes.

Q. How long had the ship been moving before the collision took place?

A. It is impossible for me to say; I cannot tell?

Q. You say it is impossible for you to tell?

A. Yes, but it could not have been long.

Q. At the time the collision took place, at the very moment, where was the Equator?

141 A. When the collision took place we were I suppose about half a cable's length off. We had cut the hawser previously; as near as I could judge, the Equator lay about northeast from her about a cable's length, northeast from the Sif. We passed her stern.

Q. How close to her stern did you pass?

A. I suppose about fifty or a hundred feet.

Q. Did the cable that you had hold of with the Equator touch the Sif?

A. I don't know whether it did or not; it did not go a great ways off.

Q. Did it go on the deck of the Sif?

A. Not to my knowledge; not that I know of.

Q. What about that cable they had hold of the Philip with—that the Philip had hold of the Sif with?

A. I never saw it.

Q. You don't know whether she had or not?

A. I know she had.

Q. Do you know whether it parted or not?

A. I don't know whether it was parted or cut.

Q. How much water did the Equator draw?

A. I think about thirteen feet, according to the coal we have in; when properly coaled I think she draws about thirteen feet and
142 a half. I cannot tell how much she drew that morning. I could not tell how much the Sterling drew; she was light; she was bound to the city. I don't know whether she was in ballast or loaded, but I think she was in ballast. The Sif was bound out.

Q. What part of the Sif did the tow-boat Philip have hold of?

A. She had a hawser from her stern.

Q. Was the Philip pulling the Sif north or south; which way was the Philip, inside or outside?

A. The Philip must be heading about northeast.

Q. She was inside of the Sif?

A. No; she was across the channel—that is, up to the channel; she was trying to tow her off.

Q. Towing the Sif's stern up the channel?

A. Yes; angling, as you may say.

Q. How long had the Philip been at work on the Sif there getting her over the bar?

A. I could not say; she had got the Sif under way, I think, about two or three hours previous to this, because when we work that way we pay no attention. She might have took hold of her the night before for what I know. I have lots of work to do, besides watching other people.

143 Q. How long have you been engaged in the tow-boat business?

A. About four years, off and on.

Q. This tow-boat Equator belongs to the Tow-boat Association?

(Objected to.)

A. Yes.

Q. And the tow-boat Philip also?

(Objected to.)

A. She belongs to the association.

Q. And the tow-boat Lone Star belongs to the association too?

(Objected to.)

A. I suppose so. I don't know anything about it; they employ me, and they pay me; they call it a consolidated line.

Q. Did you see the collision when it took place?

A. Yes.

Q. What part of the Sterling struck the Sif?

A. No portion of the Sterling struck her. I think her jib-boom was locked, as near as I could tell, about her top-gallant back-stays, or main topmast; might been between the rigging.

Q. What damage was done on board the Sif?

A. Took her foremast, mainmast, and mizzen-topmast out of
144 her. The mizzen-topmast broke out under the mizzen-topmast rigging.

Q. Can you say whether the Sterling was afloat or aground after the collision took place?

A. She was aground.

Q. She remained aground?

A. Yes, sir; I think until the Lone Star went and hung on to her and towed her off. I was there at the time. I think the Lone Star was the one pulled her off and brought her in to the station.

Q. At the time the collision took place which side of the Sif was the Equator on?

A. We crossed her stern of course. We were on her starboard side—that is, portionally. We were nearer her starboard side than her port. We were not very near the Sif.

Q. Do you know how wide the channel is there?

A. No; I could not tell. I will give you my judgment. I suppose that time somewhere near three hundred feet wide, because we could go down with two tows, one past the other; three hundred feet wide I think.

145 Captain I. WARREN, sworn and examined for claimant, says:

I am captain of the steam-tug Equator. On the 15th of March, about twelve o'clock or twelve twenty, we took hold of the ship Sterling to tow her into the station. The bark Sif was ashore to the westward of the channel. We came up to the bar and found the channel clear and I came on in with the ship. The Philip had been pulling the Sif an hour or an hour and a half then. As I entered the bar the Lone Star came down and rounded too and took her hawser to the Philip's bow, and as I came up I found the Lone Star had started the bark astern. I sung out to them to cut the hawser and hard a port the ship's helm, which they done and the ship struck the east lump on the point. The Sif was coming astern very rapidly square across the current, and she went just past the Sterling's bow and the jib-boom of the ship took some part of her rigging out. I could not say what, because I
146 could not see. Took out her two lower masts and mizzen topmasts; that is about all I can say.

Q. How long before the collision did you first see the Sif?

A. I saw her about an hour and a half or an hour and three-quarters. She was still aground.

Q. Where were you when the Sif commenced moving?

A. Coming up pretty near her—the bows of the boat were abreast of the bark's stern.

Q. What did you do as soon as you found she was moving?

A. As soon as I found she was moving astern I sung out to cut the hawser and hard aport the ship's helm.

Q. How long was that before the 'ollision took place?

A. Perhaps three to five minutes.

Q. Was the hawser of the Sif cut?

A. That is more than I can tell, whether it was cut or parted.

Q. Was it cut or parted previous to the collision?

A. Before the collision.

Q. How long?

A. A very short time—two or three minutes.

147 Q. What direction was the current running?

A. South and southwest.

Q. What was the distance from the place where the Sif grounded to the place of collision?

A. About twice and a half or three times the length of the ship.

Q. Did you see any vessel pass the Sif that morning?

A. Yes. The Lone Star towed in one just previous while I was getting the ship's anchor.

Q. Could anything have been done on the part of the Equator to prevent the collision?

A. No; only what was done.

Q. Could anything be done on the part of the ship to prevent it?

A. Nothing; only if the two boats stopped with their paddles in five minutes we would have passed her.

Q. Is it usual to pass vessels aground in that condition?

A. Yes; and with three to five on the bar at a time I have taken out eighteen-feet ships.

Q. Vessels in that way have no privilege over ships afloat?

A. No.

Q. Was it or not your duty to lie outside until she got off?

A. No; not when she was not obstructing the channel.

148 Q. She did not lie across the channel so as to obstruct it?

A. The channel was free—open.

Q. What time of the day did this take place?

A. About one thirty.

Q. The day was sufficiently clear so you could see everything?

A. Yes.

Q. Was the water rough at the time?

A. It was rough outside, but not on the bar.

Q. It was the ordinary way on the bar?

A. It was not rough on the bar.

Q. Was the hawser of the Sterling at any time on the stern of the Sif?

A. Not to my knowledge.

Q. Would not you have known it if it had been?

A. I think I would.

Q. How long have you been familiar with the bar of the Mississippi?

A. For thirteen years. I am from three to six months every season on the bar, more or less. I am five months and twenty days now this towing season.

Q. You have had a great deal of experience in regard to these things?

A. Yes.

Q. Had they a good pilot on board the Sterling?

A. I think so; I heard no complaint.

149 Cross-examined:

Q. When you picked up the Sterling she was at anchor outside the bar?

A. Yes.

Q. How far off was she at anchor from the bar?

A. About a mile and a half or a mile and three-quarters.

Q. How long did it take you to run her from there to the bar?

A. After we got her anchor up, thirty-five or forty minutes.

Q. How fast were you going before the Sterling got aground?

A. Going through the water about eight knots and over the bottom about four.

Q. I understand you to say that before the collision took place the Sterling got aground?

A. Yes.

Q. And that she was hard and fast aground and not moving?

A. Yes.

Q. How long before the collision was she aground?
A. Two to five minutes.
Q. Did she ground before the Sif commenced to move?
A. No; the Sif was moving.
Q. How long had the Sif been moving before the collision took place?
A. A very short time; two or three minutes.
Q. Did she move fast?
150 Q. Yes. sir. She could not help but move fast with two boats on her after they got her started; I should judge shooting across the current she was going over the bottom at the rate of about six knots.
Q. How much water was on the bar at that time?
A. Seventeen feet had gone out in the channel.
Q. How wide was the channel?
A. Wide enough for two ships to pass; eighty to a hundred and fifty feet. Three tows could pass where she was.
Q. How long before the collision took place had you cut your hawser?
A. Three to five minutes—time enough to get the ship ashore to avoid a collision.
Q. Did the Equator pas' under the stern of the Sif?
A. Yes.
Q. How far under the stern?
A. About the length of the bark.
Q. Did your cable touch the Sif when you passed?
A. No.
Q. Do I understand you to say the cable of the Sif parted before the collision took place?
A. Either parted or cut, one or the other.
151 Q. How long before the collision took place?
A. May be two or three minutes.
Q. Did you see it yourself?
A. I saw the boats break adrift.
Q. How much water did the Equator draw at that time?
A. About twelve feet.
Q. How much did the Sterling draw?
A. About twelve feet and a half—I am not certain.
Q. After the collision took place was the Sterling still aground?
A. Yes.
Q. Was the Sif aground?
A. Yes, one side of her in six foot of water and the other side in twelve; on her port side six feet of water and on her starboard side there was twelve feet.
Q. Did you go back to the Sterling?
A. I undertook to drop to the Sterling but the Lone Star went alongside of her before me and took her off, and I went down alongside of the bark and backed down and took the hawser of the bark.
Q. What did you do with her?
A I towed her off and up to the station.
152 Q. You say you ordered the helm of the Sterling to be put hard aport before the collision?
A. Yes.
Q. Was that before she struck?
A. Yes.
Q. Was the helm put hard aport?
A. Yes.

Q. Did you see it done?
A. Yes, and the ship got ashore by it.
Q. The effect of putting the helm hard aport brought her bows which way?
A. To the eastward.
Q. What part of the Sterling struck the Sif?
A. No part of her struck her, her jib-boom took some part of her rigging.
Q. The jib-boom of the Sterling took some part of the rigging of the Sif.
A. Yes, dismasted her.
Q. Did not the hull of the Sterling strike the Sif?
A. Not to my knowledge. I don't think the Sif could draw under six feet of water. To get under her bows she had to pass six feet of water to do it. If her hawser had not been cut or parted, the bark would have gone clear of everything.
Q. If the hawser of the Sif had not parted, the Sif would have
153 gone far enough to the eastward to have cleared everything?
A. Yes.
Q. Is the Equator a powerful tow-boat?
A. Yes.
Q The most powerful on the bar?
A. Yes; that is what she is kept there for.
Q. How fast were you going when the Sterling got aground?
A. Over the bottom about four knots, and through the water about eight.
Q. Don't the tow-boat Equator belong to the Tow-boat Association?
A. I don't know whether it does or not. I know the owner she belongs to, Stephen Flanigan.
Q. Don't the Philip and Lone Star belong to the association, too?
A. I don't know; I know they are in a towing trade consolidated together.
Q. They work together, all three?
A. Yes; all work together.

Redirect:

Q. Don't you know that the Philip don't belong to Stephen Flanigan?
A. I do.
Q. Nor to Edward A. Yorke?
A. I know she does not.
Q. There was a German steamer there on the bar, some days previous; what steamer was that?
154 A. I don't recollect the name now; but she lay there some twenty-eight days.
Q. Was not the Vandalia on the bar, a day or two before.
A. Yes; that is the one. She lay there twenty-eight days.
Q. Did not vessels pass in and out while she was there?
A. Yes.
Q. What was the American steamer that lay there?
A. I don't recollect; but she did not lay long.
Q. It is a common occurrence to pass in and out, and four or five vessels laying on the bar. I took a twenty-foot ship out and vessels all around her; it is a common every-day occurrence; not one day, but every day.
Q. What is the length of the Vandalia?

A. Three hundred and thirty-six feet.
Q. Was she laying across the channel?
A. Right square across.
Q. Did any collision take place?
A. No; I often came up and put the jib-boom right over her bow and swung right around.
Q. Do you know what ship that was that went by about ten minutes before the Sterling, or was there one went by?
155 A. Yes; the Lone Star took one in and a ship sailed in.
Q. Was not it the Exporter?
A. I think so; but I will not be positive. One sailed in and the Lone Star towed one in.
Q. How long was it before the collision that the vessel sailed in?
A. May be an hour and a half.
Q. That was while the Sif was ashore?
A. Yes.
Q. In what direction did the Sif point when she lay ashore?
A. West southwest, I should think, and east southeast, her bow to to the westward and her stern to the eastward.
Q. Was it pointing something to the south or north?
A. A little north of west, if anything.

(Signed) I. WARREN.

Subscribed and sworn to before me, 22d May, 1874.

(Signed) K. LOEW.
U. S. Commissioner.

I hereby certify that the foregoing testimony of Turley Woolfley, Clements, and I. Warren, included between pages inclusive was taken phonographically by me, and that it is a true and
156 correct transcript of the same, and the signatures of the said witnesses were waived by the proctors present.

(Signed) JOHN O'LOGHLEN.

Sworn to and subscribed before me this 5th day of May, 1874.

(Signed) CHAS. S. RICE,
U. S. Comm'r, Dist. of La.

To be filed. 5, 30, '74.
HORNOR & BENEDICT,
For Libellants.

Testimony for claimants.—Filed June 1st, 1874.

R. M. PETERSON ET AL.
vs.
THE SHIP STERLING AND STEAM TOW-BOAT Equator. } No. 10496.

Testimony taken by consent, May 14, 1874, at No. 13 Commercial Place, before J. O'Loghlen, deputy clerk, 5th district court, special commissioner, by consent of counsel, Joseph P. Hornor, esq., rep'g libellant, and E. D. Craig representing claimant.

HENRY T. WYMAN sworn and examined for claimants.

By Mr. CRAIG:

157 Says, I am thirty-one years old; I am a sea-faring man; I am first mate of the ship Sterling.

Q. Commence and state what you know of what took place on the 15th day of March last, from the time the Sterling passed the bar to the time of the collision; state when she first came in from sea, and give the history of her from that time?

A. We came to an anchor outside the bar, about eight o'clock on the morning of the 14th, and lay there until the 15th, about eleven thirty a. m., when the steam tow-boat Equator, came to us, took a hawser, and took our anchor, and started in towards the bar. We arrived up to the bar about half past twelve o'clock or thereabouts, and crossed the bar. I saw this bark Sif, about the time we crossed the bar, that is the first I noticed of her, as we were towing along. I took her to be laying aground with two tow-boats, with a hawser from her stern towing up stream. When we got within about a hundred yards of her, she to all appearance seemed to start off and be moving ahead. Some seventy or eighty yards from her our pilot sung out "Hard
158 aport," and the helm was hove hard aport. The next I saw, was the hawser, was cut shoving the ship right ashore on the east bank. She could not have been aground more than five minutes before the Sif came down and crossed our bow. I think it was her main topmast back-stay, or her main rigging took our jib-boom first, and then she appeared to swing a little, and the boom cleared from there, and went in under her main-stays, which fetched the mainmast off, and when that cleared, she seemed to slide by a little more, so we took the fore-rigging, the fore-topmast back-stay, and that fetched the foremast down. The steam tow-boat Lone Star, and the Philip, the two tugs that had hold of her, had either cut or parted their hawsers. The Lone Star came to us and took hold of us and towed away awhile and got us clear and took us into Pilot Town.

Q. On which side of the channel was the Sif aground, when you first saw her?

A. On the west side.

Q. Where did she run aground with the ship Sterling?

159 A. On the east side, her helm was hard aport.

Q. Was the hawser of the Sterling cut before the collision?

A. Yes, it was cut as soon as the helm was put hard aport. She would mind the helm a great deal quicker by the hawser being gone.

Q. You say the hawser of the Sif was either parted or cut?

A. Yes, I could not say which.

Q. Was that before the collision?

A. Yes.

Q. How long before the collision?

A. A very few minutes.

Q. Do you think it was the part of wisdom to cut the hawser of the Sif at that time? Which would be the proper course to have pursued in your judgment?

A. I think they had better have held on to it from what I could see.

Q. Have you been often in the port of New Orleans?

A. Four times.

Q. Did you notice the current that day much?

A. I noticed there was a strong current running.

Q. Which way was it running?

A. Down stream.

160 Q. South or southeast or southwest, which way?

A. About southwest. I did not look at the compass to see it exactly how it run.

Q. Then you are not exactly certain, but that it was running in a southerly direction?

A. Yes, somewhere between south and southwest.

Q. What direction was the Sif pointing just before the collision when you supposed she was moving?

A. West by south, southwest between west and southwest about west by south.

Q. These directions, did you examine the compass to see?

A. No, only from how the river run and seeing the sun.

Cross-examined by Mr. HORNOR:

Q. How far was it outside the bar that you were laying at anchor. How far was it from the bar to where you were laying at anchor outside?

A. About a mile and a half, or a mile and a quarter, better than a mile.

Q. Did not you see the bark Sif on the bar before you started to weigh your anchor?

A. I saw a bark laying there.

Q. At the time you weighed your anchor, you saw a bark lying there?

A. Yes.

161 Q. Was it not the same bark you came in collision with?

A. I could not tell. I did not see her name.

Q. You did not see any other bark pass in or out during the time?

A. I saw vessels pass in and out the whole morning.

Q. You don't know whether it is the same or not?

A. No.

Q. You say the hawser of the Sif was parted or cut before the collision?

A. Yes.

Q. How do you know?

A. I saw it go.

Q. Where were you?

A. On the ship's forecastle deck.

Q. How long was that before the ships touched each other?

A. It may have been three or four minutes; somewhere there.

Q. You say the hawser of the Sterling was parted before the collision?

A. Yes.

Q. Was it parted, cut, or thrown off?

A. It looked to me to be cut.

Q. Did you see it cut?

A. No.

Q. Did you see it go before the collision?

A. Yes.

Q. How long before the collision?

162 A. Three or four minutes.

Q. That you saw yourself?

A. Yes.

Q. Was the Sterling afloat or aground at the time of the collision?

A. She was aground.

Q. She was moving?

A. No, she was not.
Q. How long had she ceased to move?
A. I should judge two or three minutes. She was still, all motion stopped.
Q. Did her motion stop when the hawser parted that tied her to the Equator?
A. No; she was still moving.
Q. How long was it from the time the hawser was cut until she stopped dead fast?
A. A short time; it may have been two minutes.
Q. How long was it before the collision that the pilot cried out, "Port your helm?"
A. It must have been about four minutes, or thereabouts.
Q. Did the ship mind her helm?
A. Yes; very quick.
Q. The helm was ported as soon as the pilot ordered?
A. Yes.
Q. And the ship minded her helm?
A. Yes.
Q. And went to port?
A. Yes.
163 *A. Yes.*
Q. Which way was the ship's head pointing at the time of the collision when the Sif struck her or she struck the Sif?
A. It must have been pointing to the northward and eastward.
Q. What part of the compass would you call it?
A. Between north and northwest.
Q. When your helm was put hard aport that had the effect of making your vessel go to the eastward?
A. Yes.
Q. I am right about that?
A. Yes.
Q. How many points did she go to the eastward with her helm hard aport?
A. Three or four points.
Q. How was she heading before her helm was put hard aport?
A. Up the river. That must have been about north or north northeast.
Q. You say that the Sif came down upon you. I want to know how far it was from the place you say the Sif was hard aground to the place where she struck you. You say she was hard aground, and that when you got up in her neighborhood she swung loose and came
164 from the west to the east side of the channel. How far was she from you when she broke loose and came over and struck you?
A. The first I noticed her moving she was somewhere between eighty and a hundred yards off.
Q. How long was it from the time she first commenced moving until she struck you?
A. Four or five minutes.
Q. How fast were you going through the water at the time the cable was cut between you and the Equator?
A. I could not say exactly. We must have been going through the water five or six knots.
Q. How fast was the Sif going as she came down on you?
A. I should judge about three knots over the ground.
Q. Which of her masts fell first?

A. The mainmast.

Q. How long was between the fall of the mainmast and the fall of the foremast?

A. Not much over a minute or two minutes.

Q. Did the hulls of the two vessels come together?

A. Very slightly.

Q. But they did touch?

A. Yes. I believe scratched the copper on the Sif a little.

Q. It did not hurt your copper any?

165 A. No, I saw a mark on the copper of the Sif, but I could not say the ship did it; it looked newly torn away. I saw the two ships together, but I did not see whether the sterns under water was touching or not.

Q. Did the hulls touch above the water?

A. Yes.

Q. Was there any damage done on board the Sterling?

A. Yes; her fore-royal stay was parted, her foretop-gallant stay, her fore flying-jib guy—jib guy and her outer martingale stay.

Q. Is that all?

A. The jib-boom was broken, too, pretty badly. The stays were broken so that the carpenter had to cut them off. She will have to get a new jib-boom.

Q. Could not the balance of the damage be repaired on board the ship?

A. Not very well.

Q. Have they been repaired?

A. No; not yet.

Q. After the collision was over, did you see the end of the hawser of the Sterling?

A. Yes.

Q. Did it appear to be cut?

A. To all appearance.

Q. Could you tell from the end of the hawser whether it was parted or cut?

166 A. Yes; it was parted too square to be parted.

Q. Could not any ordinary seaman tell?

A. Yes; could see it was cut.

Q. Any ordinary seaman could tell the difference between a hawser cut and parted?

A. Yes; you can tell when parted and cut with a sharp instrument the same as you can a piece of cloth torn or cut with a pair of scissors.

Q. Where was Captain Baker when the collision took place?

A. On the top of the after-house; he had been there from the time we weighed anchor, and I had been on the forecastle since the same time. I have been in the Sterling since the 16th of last June, and I have been a seaman fourteen years last October.

Q. After the hawser of the Sterling was cut or parted on the Equator, did you see what became of it?

A. Which part of it?

Q. Any part of it.

A. The part was made fast to the ship we hauled it in.

Q. Did you see either that part or any part of that hawser on the deck of the Sif, either before or after the collision?

A. No.

167 Q. How long a hawser was that before it was tied on to the Equator?

A. The ship's hawser was an eleven or twelve inch hawser.
Q. How many fathom?
A. Ninety fathoms.
Q. How many fathoms did you haul back on board the ship?
A. It must have been eighty odd.
Q. There only remained about ten fathom on board the Equator?
A. Yes.
Q. About how many fathoms distance was there between the Equator and the Sterling when the Equator was towing her before the collision?
A. We must have had out some sixty or seventy fathoms of the hawser.
Q. Can you tell how many fathoms was out between the Sif and the tow-boats that were pulling her?
A. I could not tell; about ten or twelve fathom. That would only be a guess on my part.

Redirect by Mr. CRAIG:

Q. You said the Sterling was moving from five to six knots in the water; how many knots would that be over the ground?
A. Somewhere between three and four knots.
168 Q. Do you know the amount of damage that was done in money to the Sterling; how much it would take to repair it?
A. No.

JOHN MAXWELL sworn and examined for claimant:

By Mr. CRAIG:

Q. What is your business?
A. I am a shipwright.
Q. Did you examine the bark Sif after the collision?
A. I did as far as possible.
Q. Did you make an estimate of the damages?
A. Yes.
Q. Is this little memorandum you made?
(Counsel hands witness the document, which witness identifies as the memorandum he had made himself.)

Document referred to above.

MARCH 27TH, 1874.

Estimet' of damag' T. bark Sif.

Foremast gone, 25 in	250
" T. M. "	75
" " G. M. "	37
" " G. Y. "	17
Iron work gone, 26 in	65
169 Mainmast gone 26 in	275
M. topmast gone	75
M. " G. " "	20
M. yard "	50
M. T. S. yard "	25
M. T. G. " "	17
Maintop and trusell-trees gone	25

Iron work for same	90
Misson-topmast gone	21
Iron work	13

DAMAGE TO THE HULL.

Starboard side:	
Main rail gone, 25 ft, 5 x 14	25
Monkey " " 25 " $2\frac{1}{4}$ x $3\frac{1}{2}$	8
Bulkheads "	17

PORT SIDES.

Rail chafed	7
Bulkheads' bronk damaged	12
To wedge foremast	5
" " M. "	5
To repair port portion piece	17
	$1,151 00

With kelson to lo'er deck	$7\frac{1}{2}$ ft.	
Lo'er to up'er deck	$6\frac{1}{2}$ "	
Pumps 25 in. aft of masts.		
Every estimate has been properly calculated, according to the best of my judgment, and placed in figures and amounts to		$1,151 00
But for some small thing that might come up I would add		$100 00
170 I will do the work for the amount		$1,251 00

AS TO RIGGING.

I could not see it all, but said men working on back-stays, strip-'ing them and serving them, but did not see every damage by the collision. The above damage encludes making and placing all spars and iron work at their proper place in the Norwegian barque Sif.

JOHN MAXWELL.

A. This is an estimate of everything, amounting to eleven hundred and fifty-one dollars; that is all right.

Q. Would you take that job and repair the vessel for twelve hundred and fifty dollars, and do it complete?

A. Yes.

Q. You examined the vessel thoroughly?

A. Yes; all the damage done as far as I could.

(Witness'es memorandum offered in evidence, marked Estimate; made part of his testimony.)

Cross-examined by Mr. HORNOR:

Q. You say you are a shipwright?

A. Yes.

Q. What do I understand by shipwright; a rigger, carpenter, or what?

171 A. One who can make a mould and model and build a ship, spars and everything else.

Q. A rigger and everything else?
A. Not supposed to be a rigger, but I am a man can do it.
Q. Did you ever build a ship and rig her throughout yourself?
A. Yes; I have.
Q. In this port?
A. No.
Q. What is your particular occupation in this port?
A. Now I am foreman for the tow-boat line.
Q. You attend to making the repairs on the tow-boat line?
A. Yes.
Q. This steamboat Equator that we sue here belongs to that line?
(Objected to.)
A. I repair for the Good Intent and Flanigan line. The Equator belongs to the Flanigan line. I attend to repairs on her when there is anything to be done.
Q. How long have you been in that business?
A. I have been in this business in this line over a year; fourteen or fifteen months.
Q. You do not do any other business except the business of the line?
A. Yes; that is in case they send me out.
172 Q. You don't do business for outside people?
A. No.
Q. If the Sif came to you to have her damages repaired could you have done it?
A. Yes.
Q. Without neglecting other work?
A. Yes.
Q. You would have done it?
A. Yes; if they came to me. I have the liberty of doing outside jobs that come to me. I occasionally do. When an accident occurs they call me out.
Q. Have you ever had any outside jobs to do since you have been in the employ of the tow-boat line?
A. No; I have not taken any outside jobs except when they give me an order to do it.
Q. How old are you?
A. Fifty-five years.
Q. How long have you been a shipwright?
A. I started in my earliest days as a shipwright. I never knew anything else except a few years at sea. That was my first business.
Q. The prices you put on the work you estimate here you think they are liberal?
A. I think they are.
173 Q. You have no doubt they can be done at this rate?
A. I have not.
Q. Where was the Sif when you examined her?
A. Laying at the warehouse in Algiers.
Q. Had they commenced the repairs on her?
A. I don't think they had, but they had commenced taking the spars out of her.
Q. Did you go aboard?
A. Yes.
Q. You say you examined her as far as you could?
A. There a great many little minor things I could not examine; they had sent everything down or put them ashore—bands, trusses,

and other little things—but I saw most of them afterwards. Her hull I examined thoroughly.

Q. Does this estimate that you make here include all repairs to her rigging as well as her spars?

A. No; the latter end of it will explain that to you.

Q. Where is that where it explains about the rigging? You have just said that at the lower part of your estimate you explain about the rigging; where is that?

(Counsel hands a piece of paper to the witness.)

A. Mr. Craig says this is it.

Q. This is a part of the original estimate you made?

174 A. Yes; showing that I did not examine the rigging.

Q. When you gave this estimate to Mr. Craig were these two pieces joined together?

(Objected to any such testimony.)

A. That I cannot say whether they were or not.

Q. Did you make this estimate on two pieces or on one piece of paper?

A. I could not swear whether I did or not, but the two pieces are my estimate—the explanation and the estimate too.

Q. On this piece of paper I hold in my hand marked "Estimate," is there anything on this piece of paper estimating the damages done to the rigging?

A. No; there is nothing about the damage done to the rigging on that piece of paper.

Q. Did you make an estimate of the damage done to the rigging?

A. I have already stated in my report that I could not see any damage to the rigging, and therefore I did not estimate it.

Q. Did you see anybody on board the Sif when you went to make your examination?

A. I did; I saw a gentleman who reported himself to me to

175 be the first officer; I don't know his name.

Q. Did you ask for the captain?

A. Yes; and he was not there.

Q. Did you go on board of her more than once?

A. Yes; three times.

Q. Did you see the captain any one of these three times?

A. No.

Q. Did you tell any one what you came there for?

A. I did not.

Redirect:

(Second portion of witness'es report offered in evidence and marked X.)

Q. This one hundred dollars you speak of on document X, would that cover all the other repairs you have not estimated in the first bill?

A. The hundred dollars I put in that was because there were some band-screws and small things about the spars, such as eye-bolts, that I could not see, and I added that, supposing they were lost.

Q. You would be willing, as you said before, to do everything for twelve hundred and fifty dollars?

A. Yes; with the exception of the rigging.

Q. And what about the rigging?

176 A. I don't think really that the rigging was damaged but very little.

Q. What would it cost to repair the rigging?

A. I could not say, for I did not see it. When I went there the rigging was off. I should judge two hundred and fifty dollars would repair the rigging; that is, in addition to this amount there. I think two hundred and fifty dollars would cover the repairs on the rigging. There are no others; I put everything in.

Q. This eleven hundred and fifty-one dollars for the rigging would do all the repairs?

A. Yes. When I arrived on the spot they were stripping the topmast and topgallant-backstays. I did not examine them, but I examined the spars. I did not examine the rigging, but I saw them stripping it to put on new service. I suppose they were doing it for the benefit of the ship. I did not think on account of an injury, for I did not see any break.

Q. Was it necessary to take out seven hundred bales of cotton?

A. I don't think it was.

Q. How much would it be necessary?

A. I don't think there was any necessity for taking any out. At the mainmast the pump stood aft of the mainmast and the stanchions
177 stood forward. I am satisfied that that mast could be taken out and put in without ever taking *taking* a bale of cotton out.

Recross by Mr. HORNOR:

Q. Did you go down into the hold?

A. I did.

Q. That was after the cotton was taken out?

A. I was there when they were taking it out.

Q. Were you not there after they finished taking it out?

A. I don't think I was; I was some three or four days before I could get all my estimates and measurements.

Q. Did you them putting in the new masts?

A. I did not. I did not go there after I made my estimate. I did not go there anymore after that.

Q. Before you came into the employ of the tow-boat association in whose employ were you?

A. In the Morgan line.

Q. Before that?

A. In my own business, building vessels.

Q. How long ago was that?

A. I arrived here in 1865.

Q. How long were you engaged building vessels on your own account in this port?

A. I never built any vessels in this port.

Q. How long were you working on your own account in this port?

178 A. Not at all. I did not work on my own account in this port.

(Signed) JOHN MAXWELL.

SAMUEL B. CALDWELL, sworn and examined for claimants.

By Mr. CRAIG:

Q. What is your business?

A. I am master of tow-boat Philip.

Q. I wish you to commence and gave me the history of your connection with the bark Sif on the 15th of March last up to the time of the collision between the Sif and the Sterling?

A. Just about eleven o'clock or half past eleven o'clock I commenced

working on the Sif. I was obliged to let go the hawser, and during that time she went over to the westward and grounded. I then went to her and took a hawser from her quarter and commenced pulling on it. But pulling on it against the current it was sagging me down, and I was obliged to have another boat to hold me up against the current. I blew for the Lone Star, and she came to my assistance, and took a hawser ahead of me and held me up, and continued pulling in that
179 way until the hawser parted.

Q. What time of the day was this?

A. About eleven or half past eleven, shortly before noon. I should judge from the work I was doing before.

Q. The Sif was aground?

A. Yes; to the westward of the channel.

Q. What direction was she pointing?

A. Heading about west by south, I should judge.

Q. And the tow-boats were pulling up stream?

A. Not exactly up; pulling across a little, a little up from across.

Q. Where was the Sterling when the Sif began to move?

A. She was coming in over the bar.

Q. Did the Sif move slowly at first or did she move fast?

A. Quite slow when we started her first from her bed, just so that you could perceive it, but continued to increase her speed until she got afloat.

Q. When she got afloat where was the Sterling that time?

A. Just barring her.

Q. Did you see the Sterling when her hawser was cut or parted?

A. No; I was not looking at the Sterling at the time, but at the Equator. I saw the Equator.

Q. You knew where it was cut?

180 A. Yes.

Q. How long was that before the collision?

A. I suppose it may have been four or five minutes—three or four minutes.

Q. In what direction was she at that time from the Sif, as near as you can estimate it?

A. A little above her.

Q. East, north, or what?

A. She was to the northward of her, that is, the bark Sif was to the northward of the Sterling. The Sterling was to the east, on the east side of the channel.

Q. You understood me first to say the Sif instead of the Sterling?

A. Yes; that is what I understood first.

Q. You mean to say the Sterling was to the east of the Sif?

A. Yes; but the Sif was a little above her to the north. The Sif was to the west and the Sterling to east side of the channel.

Q. Did you cut the hawser of the Sif?

A. No.

Q. Was it cut on board the Philip?

A. No; it parted on my bits; just abaft the bits.

Q. Was it the fault of your vessel or the fault of the hawser that the hawser was parted?

181 A. It was the fault of the hawser.

Q. Did you get any orders from the pilot of the Sif to cut your hawser?

A. No.

Q. In your judgment, if the hawser of the Sif had not been parted could the collision have been avoided?

A. I think there would have been no collision, or if there was a very light one, very little damage, perhaps carried away her jibboom, or we would have straightened her up, so that there would have been no collision.

Q. Did you hear the pilot of the ship sing out to the Equator to cut his hawser?

A. I heard the order given to cut his hawser, whether from the pilot or captain I don't know. I know the hawser was cut; I heard the axe when it struck the rope.

Q. Was the hawser of the Sterling cut before or after the hawser of the Sif parted?

A. It was cut before.

Q. Who was the pilot of the Sif?

A. Douglas; I don't know his first name.

Q. Did you ever have any conversation with him about the hawser?

A. Yes.

Q. Did he ever tell you he ordered you to cut the hawser of the Sif?

(Objected to.)

182 A. No.

Q. Could the hawser of the Sif have been cut by any one without your having known it on board the Philip?

A. No.

Q. Where were you on board the Philip when it parted?

A. Forward of the pilot-house.

Q. What is the custom in regard to vessels under circumstances like you were placed in about passing up and down the channel; has one any preference over the other?

A. No; we frequently do it while vessels are on the bar.

Q. Had any vessels passed you that morning while you were hauling on the Sif?

A. Yes; the Lone Star went in with me.

Q. What large steamship lay there for several days?

A. The Vandalia.

Q. Did vessels pass and repass her?

A. Yes.

Q. Do you know about the length of the Vandalia?

A. I suppose she is three hundred and fifty or three hundred and sixty feet long—over three hundred.

Q. Who does the Philip belong to?

A. To Mr. Marcy and Capt. Leach.

183 Q. What line is that?

A. The Eclipse line.

Cross-examined by Mr. HORNOR:

Q. Did not the Philip at that time belong to what is known as the tow-boat association?

A. Yes.

Q. And the Equator belonged to the same association?

A. Yes.

Q. When you say you had a line from the quarter of the Sif that was near her stern?

A. Yes; from her pipe; was in her stern, on the side of her stern.

Q. The Sif was heading west by south?

A. I should judge west by south, or perhaps not so far as to the southward as that, but by rough guess.

Q. How was the Philip pointing the same time when you were pulling?

A. Heading about east or east-northeast until the ship came on to the bar, and then we straightened up more to the north—about east by north.

Q. About what was the width of the channel at that time?

A. I suppose a hundred or a hundred and fifty feet. Two or
184 three tows could pass each other; that is, at the place where the Sif was.

Q. At the time the collision took place was the Sterling afloat or aground?

A. That I could not say. When the collision took place I was obliged then to look after my own boat. When the collision took place I was free from the Sif.

Q. When the collision took place was the Sif afloat or aground?

A. I think she was aground.

Q. You are not sure?

A. No. She went across to the eastward very fast; I suppose a mile and a half an hour or perhaps more.

Q. About how far was she when she commenced to float from the Sterling?

A. About the length of the hawser—about two hundred feet.

Q. How long was it from the time the hawser parted, as you say, on board the Philip to the time of the collision?

A. From three to four minutes, perhaps five.

Q. How long was it from the time the hawser was cut aboard the Equator to the time of the collision?

A. That was about, I suppose, six or seven minutes—a short time before.

185 Q. This steamship Vandalia that you speak of, was she on the bar at the time the collision took place?

A. She was to the westward, clear of everything; we considered it clear across; we could come in and out with vessels. She was some distance inside of us, above us.

Q. About how far?

A. Probably about an eighth of a mile.

Q. Was she entirely out of the way?

A. Yes, we did not pay any attention to her at all.

Q. About where the bark Sif was when you commenced tugging on her, or at the time of the collision, was there any mud lump around there?

A. Yes, a mud lump to the eastward.

Q. Was the Sif to the upper or to the lower side of that? and the ship aground on the lower.

A. The Sif was on the upper.

Q. Before the collision?

A. I could not tell, because I was looking after my own boat.

Q. And the mud lump was between them?

A. Yes.

Q. How was the wind that day?

A. To the southward; might have a little easting in it, but little.

186 Q. Was it strong?

A. Blowing a fresh breeze.

Q. Was it fair for ships to come up or down?

A. It was fair for them to come up.

Q. After the collision did the ships remain together until the Sterling was towed off?

A. Yes.

Q. What kept them together?

A. They were ashore.

Q. Did the wind have anything to do with it?

A. No, they were in the mud.

Q. Did you see the hawser of the Sif when it parted?

A. No.

Q. Where were you?

A. I was forward of the pilot-house.

Q. What became of the end that remained on board your boat?

A. I have it in board the boat now, about two fathoms, a hemp hawser, a water-laid rope, about an eight-inch hawser.

Q. New or old?

A. A pretty good rope. If it had been a manila rope, I think it would have held.

Q. A manila rope is stronger than hemp.

A. Yes, if there is any age to the hemp.

Q. How much age was there to that hemp hawser?

187 A. I could not tell that, I could not judge. When they are tarred you cannot judge of anything but the looks of the tar.

Q. Do you think it was a year old?

A. Impossible to tell, it would be kept well, and perhaps be two years old. This was a rope that did not look to have much wear, or to have been used much.

Q. Did you take the Sif off the bar?

A. No, she was taken off by the Equator.

Q. Did you tow her up town?

A. No.

Q. You had nothing further to do with her?

A. Nothing further, sir. I should have taken her up if she had the wreck cleared away so that I could tow her. I was ordered up that night with the tow, and she was not ready; I had to go without her.

Q. What damage was done her?

A. I saw nothing but the spars out of her and a piece of her bulwark; the rest of her I could not see very well because she was so covered up with the débris.

Q. Do you know if the hull of the two vessels came together?

A. No; I don't think they did; I saw no mark on the Sif, and

188 I was close to her, laying there waiting to give me a hawser to tow them off the bank.

Q. What prevented them coming together?

A. I think it was the mud lump.

Q. Have you any idea of the size of that mud lump?

A. No, it was a very shallow lump.

Q. What was the depth of the water there?

A. About six or seven feet.

Q. At the place where the collision took place?

A. Yes.

Redirect by Mr. CRAIG:

Q. Captain Warren was captain of the tow-boat Equator?

A. Yes.

Q. Is Captain Warrn a skillful officer?

A. Yes.

Q. Have you known him many years?

A. Yes, I knew him before the war; I was not well acquainted with him then, but knew he was a tow-boat man.

Q. As far as you can say, would you have done the same thing under the circumstances?

A. Yes.

Q. Do you think he acted properly under the circumstances?

189 A. Yes, I don't know how he could have done different.

Recross by Mr. HORNOR:

Q. At any time during the time you were at work on the Sif could anything have been done on board the Sif to avoid the collision?

A. No. After we started, our full course was kept going. I think if we stopped it would be worse; they would have met in deep water, and, as far as the Sif, would have damaged her a great deal more. If there had been a stronger hawser, of course we might have avoided the collision. The reason we did not stop was that it was our only best course we could do.

Redirect by Mr. CRAIG:

Q. Had the hawser broke before, would the damage have been more serious?

A. Yes. I think the bark would have been damaged more.

Q. Do you think the hawser could have been cut on board the Sif?

A. No; because I saw his hawser laying from his quarter into the water after it parted from me.

Q. It would have been imprudent in you to have cut the hawser?

190 A. Yes.

Q. And you are sure it parted?

A. Yes, on my boat, and I have the end of the rope as proof of it.

(Signed) S. B. CALDWELL.

Subscribed and sworn to before me this 22d May, 1874.

(Signed) K. LOEW,
U. S. Commissioner.

Before me personally appeared John O'Loghlen, to me known, who, being duly sworn, deposeth and saith that the above sixty-two (62) pages contain a full and correct transcript from his phonographic notes of the testimony of Henry T. Wyman, John Maxwell, and Samuel B. Caldwell.

(Signed) JOHN O'LOGHLEN

Sworn to and subscribed before me this 20th day of May, A. D. 1874.

(Signed) CHA'S S. RICE,
U. S. Comm'r Dist. of La.

To be filed by consent.

5—30—'74. (Signed) HORNOR & BENEDICT,
For Libellant.

191 *Testimony for claimants.—Filed June 1st, 1874.*

U. S. district court.

R. M. PETERSON & ALS.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR. } No. 10496.

Testimony of Peter Donhan, a witness for claimants, taken by consent before C. W. Colton, special commissioner, by consent.

N. O., *April* 27, 1874.

Joseph P. Hornor, esq., for libellants; E. D. Craig, esq., for claimants.

PETER DONHAN sworn and examined on behalf of claimants.

By Mr. CRAIG:

Q. Mr. Donhan, were you on board of the ship Sterling on the fifteenth of March last?

A. Yes.

Q. In what capacity?

A. As pilot of the ship.

Q. What is your business?

A. Piloting.

Q. What is the style of your business?

A. Branch pilot for the port of New Orleans.

Q. Now commence and detail this transaction from the time
192 you went aboard of the ship Sterling until the time of the collision.

A. I went aboard of the ship Sterling about eleven o'clock, and commenced heaving up and sat a flag for a steamboat.

Q. State where she was.

A. We put a flag at the main for a steamboat; we were to an anchor about half a mile outside of the outer buoy, and the steamboat came us about twelve o'clock; we had thirty fathoms chain out; we hove that up, and got under weigh, and took to the bar; the channel was perfectly clear when we took it, the bark being to the westward of the channel about eighty or one hundred and twenty-five or hundred feet.

Q. What bark do you mean?

A. The bark Sif; and when we got close up to her she started; the steamboat had been working at her all day, one of them, and the other one had come there about the time that we took the bar; when we got close up to her she took a start and shot right across the current, and we were too close to get out of her way. I had ported my helm, and shoved the vessel hard over as far as I could, and sung out to them
193 to let go the rope, which the' cut as the *as the* quickest way of letting it go; I struck against six feet of water; we got right against six feet, and just about the time that the ship struck bottom the bark struck her or the jib-boom. I don't believe, to my knowledge, that the two vessels struck their hulls together, but it was in the rigging and the jib-booms that the collision was; as soon as the bark fetched up, or the ship fetched up rather (fetched the bark up), she took a mast out of her, and the bark kept on dropping a little further, and took the other mast out of her; then we got a steamboat and backed astern clear of her.

Q. What boats were pulling at the bark Sif?

A. The Philip and the Lone Star.

Q. Were they both pulling at her when you first observed her, or only one of them?

A. There was one pulling at her for pretty much all day.

Q. How long was it before the collision that the Lone Star hooked onto the Philip?

A. It might have been fifteen minutes, or a little less or more; I couldn't say for a certainty.

Q. Where was the Sif at the time you went into the channel?

A. It was about eighty feet out of it.

194 Q. On which side?

A. On the western side.

Q. In what direction was she pointing?

A. About west by south or west.

Q. What direction was the current?

A. Sou'-sou'west.

Q. Was the current pretty swift?

A. It was running, I should say, about two knots, or two and a half; I couldn't say.

Q. Where were you when you first began to perceive the Sif to move?

A. I was, I suppose, within a hundred yard' or so of her.

Q. What did you do then?

A. Hard aported.

Q. Did the Sif move fast or slowly at first?

A. She moved slowly, and as she got further over into the deep water she came all the faster, the current being the cause of her coming down across our bow.

Q. How long was it before the collision that your hawser was cut on the Sterling?

A. Well, it might have been only two or three minutes; I couldn't say about that.

Q. You are sure it was cut before the collision?

A. Yes, sir.

Q. Do you know whether the hawser of the Sif was cut before or after the collision, or whether it was cut at all?

195 A. That I couldn't say, but the hawser was gone before the collision; but how it went I don't know, because I couldn't see that side of the vessel.

Q. You say that you put your vessel hard aport as soon as you found the other vessel was moving?

A. Yes, sir.

Q. What was the object of cutting the hawser from the Equator?

A. To let the steamboat out of the way and save the collision, and make the collision as easy as possible.

Q. How far was it from the point where the Sif lay aground to the point of collision, as near as you can judge, how many feet?

A. It must have been about a hundred and fifty yards [feet].

(NOTE BY PROCTOR FOR LIBELLANT.—Corrected on page 201.)

Q. What time of the day was this?

A. About one o'clock.

Q. Was the day bright, so that you could see?

A. Yes, sir; clear as could be.

Q. Could you have done anything more to prevent the collision than you did do?

A. No, sir.

Q. Did you see any vessel pass by the bark that morning?

A. There were about seven or eight of them went in ahead of
196 us; there was one two (2) miles ahead of us.

Q. Was that after the Sif had run aground?

A. Yes, sir; she was there pretty much all day.

Q. You saw several vessels pas' during the time that she was aground?

A. Yes, sir; she was ashore all over the bar.

Q. What is the custom in regard to passing vessels in and out of the bar when one is on shore that way?

A. Well, we generally do the best we can in keeping clear of her the best way we can.

Q. Under the circumstances, was it your duty to lay outside until the Sif should pass down?

A. No, sir; because we never think of one vessel being on the bar when she is out of the way altogether.

Q. Was there room enough for vessels to pass by the Sif, laying where she was?

A. Yes, sir; there was plenty of room for two vessels to move where she was laying when we started.

Q. Did you observe the Vandalia laying there?

A. Yes, sir; afterwards.

Q. After or before the collision?

A. Afterwards; she was not there at the time.

Q. The Vandalia was there several days before that, wasn't
197 she? I mean the German steamer.

A. No, sir; that was not the Vandalia.

Q. What vessel was it? Do you recollect any German steamer being there before the collision?

A. The Germania.

Q. Did she lie across the channel?

A. No, sir.

Q. Was she aground there some time?

A. She was aground; there was the Germania and a bark which was aground about two days.

(Mr. Horner objected to this testimony as irrelevant and as incumbering the record.)

Q. Where did this vessel lay that you are speaking of? I mean this German steamship. Did it lay across the bar at the time?

A. No, sir; not the one that I am speaking about.

Cross-examined by Mr. HORNOR:

Q. About what time was it that the Sterling got under weigh from her anchorage that morning?

A. About twelve o'clock when her anchor was under weigh, or a little after.

Q. What was the name of the tug-boat that took her away from there?

198 A. The Equator.

Q. How far was it from the place where the Sterling was laying at anchor to the place where the Sif was on the bar trying to get over?

A. About a mile or a mile and a quarter.

Q. How long did it take you to run that distance?

A. We were going slow until we got our anchor and slackened, which took us a half an hour longer. It took us about three-quarters of an hour.

Q. Now we are talking about that channel there at Southwest Pass; how wide was it that day?

A. The channel itself is about eighty feet wide.
Q. How many feet of water was the Sterling drawing at that time?
A. Twelve feet.
Q. You say that the hawser of the Sif parted before the collison?
A. Whether it was parted or let go I don't know, but it was gone before the collision.
Q. How do you know that?
A. Because I saw the two steamboats going up-stream from her.
199 Q. Before the collision took place?
A. Yes, sir.
Q. How long before it took place?
A. Just about a minute or a few minutes.
Q. Now, when the collision took place was the Sterling aground or afloat?
A. She was aground, sir.
Q. Had she stopped her motion entirely hard aground?
A. No, sir; I couldn't get her hard aground, the water was too shoal. She might have been moving a little down-stream or up-stream, but she was almost across the current at the time of the collision. She may move a little down with the current or a little bit ahead, but you couldn't tell it; but she was not going ahead any that you could detect.
Q. How fast had the tow-boat been going with her just before the collision took place?
A. About two knots.
Q. How long a time was it between the time you gave the order to put your helm aport and the time that the collision took place?
A. It must have been about seven or ten minutes.
Q. And you put your helm aport as soon as you saw the Sif move?
A. Yes, sir.
200 Q. It was seven or ten minutes before the collision?
A. Yes, sir.
Q. Which one of the Sif's mast fell first?
A. The mainmast.
Q. How soon after that did the foremast fall?
A. Well, about ten or fifteen minutes.
Q. So long as that?
A. Yes, sir.
Q. What was the reason that it took so long for it to fall? Did they strike more than once together?
A. Only once.
Q. Yet the foremast fell fifteen minutes after she struck?
A. Neither mast went when she was struck.
Q. How long was it after she struck that the mainmast fell?
A. Two or three minutes, and then fifteen minutes afterwards the foremast fell.
Q. How long did you remain together, the Sif and the Sterling?
A. About half an hour.
Q. What boat took you away from her?
A. The Lone Star.
Q. Were you not afloat when the Lone Star came to you?
201 A. No, sir; she came right alongside of us and backed us off; I was heading about east by south.
Q. Then you were heading more out to sea than you were up the river?

A. No, a little more up the river.

Q. Was there any other steamer or any other vessel on the bar at the time of that collision except the Sif, the Equator, and the Sterling, and the two tow-boats that the Sif had?

A. No, sir; not to my knowledge.

Q. How fast was the Sif moving through the water when she struck you?

A. She must have been about two knots over the bottom.

Q. Was she aground?

A. Well; she had just floated off.

Q. Before that she had been hard and fast aground?

A. Yes, sir.

Q. How long was it from the time she floated off until the time that she struck the Sterling?

A. About a minute or a minute and a half.

Q. Now I understand you to say that the distance from the place where the Sterling went aground to the place where the Sif was a hundred and fifty yards?

A. A hundred and fifty feet.

Q. You meant a hundred and fifty feet when you said that?

202 A. Yes, sir; I meant a hundred and fifty feet *when you said that.*

A. Yes, sir; I meant a hundred and fifty feet.

Q. Do you know the pilot that was on board the Sif at the time, or whether she had a pilot on board of her?

A. Yes, sir.

Q. What was his name?

A. Douglass.

Q. How long have you known him?

A. Since 1865.

Q. Has he been a bar pilot all that time?

A. Yes, sir.

Q. Is he a competent pilot?

A. Yes, sir; considered so by all means.

Q. Familiar with the bar down there?

A. Yes, sir.

Q. Just before that collision took place did Douglass say or halloo anything to you?

A. He hallooed to me "hard aport," and my wheel was already hard aport; I put it so before he hallooed it to me.

Q. Did he halloo it more than once?

A. Not that I heard; I only heard it once.

Q. How long was it between the time he told you to hard aport your wheel to the time that the collision took place?

203 A. It may have been a minute or so.

Q. Now did he halloo anything else to you?

A. Oh, he sung out "let go the hawser." The hawser was cut already.

Q. Did he halloo anything else to you?

A. No, sir; not that I heard.

Q. You think there could have been nothing done on board the Sterling to prevent that collision?

A. Not after we saw the bark move.

Q. Suppose you had dropped your port anchor?

A. I would have run on top of her and couldn't have gone away from the ship on the bar, and the anchor would not have stopped her in time to save it. After I hung the bark I couldn't get away from her.

Q. What do you mean by hanging the bark?

A. I got her between the two masts, and on top of my anchor, and I couldn't get out; the damage would have been worse if I had let it go.

Q. Did anybody suggest to you to drop your anchor at that time?

A. No, sir.

Q. Where was the captain of the Sterling at the time the collision took place?

A. On the top of the poop; he came up just when the bark
204 started to move; he was on deck, but he was coming aft and said to me, "Pilot what is this?"

Q. No one suggested to you to drop your anchor?

A. No.

Q. How old are you?

A. I am thirty years old.

Q. How long have you been a bar pilot?

A. Since 1870.

Q. Did you ever have any other accident on that bar while you were performing your duty as pilot?

A. No, sir.

Q. This is the first time anything occurred?

A. Yes, sir.

Q. How was the head of the Sif pointing at the time of the collision?

A. The head of the Sif was about westsouthwest.

Q. Which way was her head pointing when she was aground on the west bank?

A. About west by south.

Q. Which way were the tug-boats pointing that had the Sif in tow?

A. Northnortheast.

Q. About how much cable was there out from the steamboats that were towing the Sif?

A. I couldn't say.

Q. How much was out between the Equator and you?

205 A. There must have been sixty-five to seventy-five fathoms; between sixty and seventy fathoms.

Q. What became of the Equator at the moment of the collision? Where was she?

A. She was right on the stern of the bark when she cut her hawser and started away.

Q. How long before the collision took place did she cut her hawser?

A. About two or three minutes.

Q. She was right under the stern of the bark when she cut her hawser?

A. Yes, sir.

Q. How long a boat was the Sif, about?

A. I couldn't say.

Q. A hundred and fifty or two hundred feet?

A. No, sir.

Q. Was it as much as a hundred?

A. She is about a hundred and twenty-five feet, I should say.

Q. Now, Mr. Donham, could the Sif have done anything to avoid that collision?

A. No, sir. If they did not cut the hawser, which I couldn't say whether they did not cut the hawser, they could have held her up until the steamers got out of the way; but the steamers couldn't do it; they couldn't do it.

206 Q. You think the collision would not have taken place if the hawser had not parted or had not been cut?

A. There would have been a collision, but it would have been slighter.

Q. How do you explain that?

A. Well, the vessel would come up-stream more, and heading down-stream, and consequently slid off the better.

Q. Did the force of the collision have any effect upon the Sif? Did it careen her over?

A. Yes, sir.

Q. When you went away and left the Sif was she still aground?

A. Yes, sir.

Q. Do you know how much water there was where she was aground?

A. She had about thirteen feet on one side and about ten on the other.

Q. She had the thirteen feet on which side?

A. On the starboard side, and on the port side ten feet.

Q. What part of the Sterling was it that struck the Sif?

A. The head gear.

Q. That is, the bowsprit and jib-boom?

A. Yes, sir; and jib-guys.

Q. You don't think the two hulls struck each other at all?

207 A. No, sir; not to my knowledge.

Q. The place that the Sif was struck, I understand you to say, was on her port side, between the fore and main mast?

A. Yes, sir.

Q. Nearest to which?

A. Nearest to the mainmast.

Q. Which side of her did the spars fall when they fell down?

A. On the starboard side pretty much.

Q. Did it damage her up pretty badly?

A. No, sir; there was very little damage done except to the spars.

Q. What was done to them?

A. They were all broken; the mainmast went about ten feet below the mainyard, and the foremast went a little over the eyes of the rigging, and the mizzen-mast about ten feet over the cap; all came down except the foreyard.

Redirect by Mr. CRAIG:

Q. Did the collision break any of the yards?

A. Not to my knowledge.

Q. What part of the Sterling was struck?

A. The martingale-stays, the jib-guys, and the jib-boom.

Q. Did you see the Sterling's hawser on the top of the Sif at the time?

A. It was hanging on the *la*mpkin after the collision.

Q. Where is the *la*mpkin?

208 A. It is a little piece of wood about three feet long, sticking right over her quarter, and is used to fasten the mainbraces to.

Q. You are certain that the hawser of the Sterling was cut before the collision?

A. Yes, sir.

Q. Where was the Equator at the time, or right after the collision?

A. She might have been two hundred yards up-stream.

By Mr. HORNOR:

Q. Tell me something about that hawser that got on that bumpkin, how did it get there?

A. I couldn't say. It must have been when the steamer cut the hawser to get out of the way that the end flew up and lodged on the bumpkin.

Q. That is the only in which you account for it?

A. That is all.

Q. How high was the bumpkin from the deck of the steamer?

A. It must have been about even with the steamboat's bits.

Q. How high are her bits above her deck?

A. About three feet.

209 Q. Do you mean to say that the deck of the Sif was only about three feet higher than the deck of the Equator?

A. It was in higher than the deck of the Equator in the way I can account for it, not to my looking at her.

Q. The decks of the two vessels were about even?

A. Yes, sir.

Q. How was it about the deck of the Sterling; how much higher was the deck of the Sterling, how much higher was the rail of the Sterling, above the rail of the Sif?

A. About twelve or fifteen feet.

Q. But the rail of the Sif and the rail of the tow-boat were about on a level with each other?

A. Yes, sir.

By Mr. CRAIG:

Q. Which was the highest out of the water, the stern of the Equator or the stern of the Sif?

A. That I couldn't say at present. The stern of the Equator is even with her deck, and consequently the decks are about even, and consequently the stern of the Sif would be a little higher, two or three feet.

210 I hereby certify that the foregoing testimony of Peter Donhan, included between pages 2 and 44, inclusive, was taken phonographically by me, and that it is a true and correct transcript of the same, and that the signature of the said witness and the jurat were waived by the proctors present.

(Signed) C. W. COLTON,
Phonographer.

Sworn to and subscribed before me this 30th day of April, 1874.

[SEAL.] (Signed) CHAS. S. RICE,
U. S. Comm'r, Dist. of La.

To be filed by consent.
5–30, 74.

(Signed) HORNOR & BENEDICT,
For Libellants.

Testimony for claimants.— Filed by consent June 1st, 1874.

R. M. PETERSON & ALS.
vs.
THE SHIP STERLING & STEAM TOW-BOAT Equator. } No. 10496.

Testimony taked by consent, May 21, 1874, at the office of
211 Messrs. Hornor & Benedict, No. 6 Carondelet street, New Orleans.

Joseph P. Hornor, esq., representing libellant, and E. D. Craig, esq., representing claimants.

JAMES G. BAKER sworn and examined for claimant.

By E. D. CRAIG, Eqs.:

Q. What is your business and age?

A. I am a sea-faring man, master of the ship Sterling, and forty years of age.

Q. How long have you been engaged on the sea?

A. Some twenty-three years.

Q. What is the tonnage of your vessel?

A. 1,732 tons.

Q. Commence and give the history of the voyage from the time you struck the bar at the mouth of the Mississippi River up to the collision with the bark Sif.

A. On the morning of the 14 of March we anchored about a mile and a half below the bar. On the 15th of March, near 12 o'clock, we weighed anchor in tow of the steam-tug Equator, and made for the bar. The bark Sif was laying then on the west bank, with two tugs to work on her. We proceeded up channel, the channel all clear. As
212 we neared the bark we saw she was moving astern, and as we got up close to her the first I heard was the order to cut the hawser and have the helm hard aport, which was immediately done, the bark Sif then coming down stern foremost across the channel and across our bow, finally striking his main rigging against my jib-boom.

Q. You say the helm was put hard aport?

A. Yes; and the hawser cut.

Q. What direction did that send the Sterling in?

A. Heaving her wheel hard aport caused her head to go to starboard to the *the* east, and the Sterling went ashore on the six-foot lump, the east lump.

Q. What direction was the Sterling pointing at the time of the collision?

A. Somewhere about northeast.

Q. Have you any diagrams? If you have, present them and explain them.

A. Yes. (Witness produces three diagrams marked P. No. 1, P. No. 2, & P. No. 3.)

Q. What are these diagrams; what are they intended to represent?

A. The channel and the collision between the ship Sterling and
213 the bark Sif.

Q. In the various positions?

A. Yes.

Q. What is P. No. 1 intended to represent?

A. The first position as the ship Sterling entered the channel.

Q. What is P. No. 2 intended to represent?

A. Where the ship Sterling proceeded up channel near the six-foot lump.

Q. Was that at the time you began to see the bark Sif moving?

A. Yes.

Q. What is P. No. 3 intended to represent?

A. The time immediately before the collision.

(The three diagrams P. No. 1, P. No. 2, and P. No. 3 offered in evidence.)

(Objected to.)

217 Q. Was that after the hawser was cut?

A. Yes.

Q. What was your vessel drawing at the time?
A. Twelve feet six inches.
Q. She was light?
A. Yes, in ballast.
Q. Do you know whether the hawser of the bark Sif was cut or whether it parted?
A. I do not.
Q. Do you know the fact that the hawser of the Sif was parted or cut just before the collision?
A. I do.
Q. Did you see the hawser of the Sterling after it was cut—whether it was on board the Sif or not?
A. No; I did not. My hawser was not on board the Sif, to my knowledge.
Q. Some of the witnesses, the captain or one of the witnesses for the libellant, has testified that the hawser was on the bumpkin. How can you explain such a condition?
A. The only way it could get up there was a heavy strain being on the hawser at the time it was cut caused the bight to fly up—the bight of the hawser might have flown up.
Q. Have you seen hawsers in that way before?
A. Yes.
218 Q. And it caused the bight to fly up?
A. Yes.
Q. But you did not see it yourself in this case?
A. No.
Q. What was the amount of damages done to your vessel?
A. Five hundred dollars.

Cross-examined by J. P. HORNOR, Esq.:

Q. Where did you come from?
A. From Antwrep.
Q. How long did you lay outside the bar?
A. Twenty-eight hours.
A. No; except when I was a boy before the mast; that was twenty-five years ago.
Q. Have you been down to the bar since the collision occurred?
A. No.
Q. How long were you at the bar altogether?
A. Twenty-eight hours we were laying outside the bar.
Q. But I mean on the bar?
A. Probably an hour.
Q. At the time of the collision was your ship moving or fast?
A. She was hard aground.
Q. How long had she been hard aground before the collision took place?
A. Probably five minutes.
219 Q. I understand you to say the Sif came down stern first?
A. Yes.
Q. Did she come rapidly?
A. Yes.
Q. How fast?
A. She went over the ground at the rate of four knots.
Q. How far did she come from the place where she was aground on the west bank to the place where she struck you?
A. Probably about three hundred feet.

Q. How long was it before the collision that the hawser that connected you with the Equator was cut?

A. Three to five minutes.

Q. At the time the hawser that connected you with the Equator was cut were you moving or fast?

A. Moving.

Q. How fast were you moving then?

A. Going through the water probably five knots, and over the ground may be two.

Q. How long after the hawser was cut before you stopped still?

A. It could not have been over two or three minutes.

Q. How much water were you drawing?

A. Twelve foot six.

220 Q. Where was that—forward or aft?

A. On an even keel—both ends.

Q. How long is your ship?

A. Two hundred and twenty-five feet long.

Q. How long do you take the Sif to be?

A. About a hundred and sixty feet or thereabouts.

Q. Did the hulls of the two vessels come together?

A. Not to my knowledge.

Q. What is your opinion on the subject as to whether they did or not?

A. The two hulls might have come together possibly; but, under the circumstances, it is very doubtful whether they did or not.

Q. You cannot say positively?

A. No.

Q. What was the nature of the damage done to your vessel?

A. My jib-boom was carried away, my fore topgallant foreroyal stay, jib and flying-jib guy, jumper-stays, and boat-stays.

Q. Will all these ropes or stays have to be replaced new entirely?

A. Yes.

Q. Every one of them?

A. Yes.

Q. The ropes were entirely used up?

221 A. Yes.

Q. What became of the old ropes?

A. They are aboard yet.

Q. Why don't you sell them?

A. The new rope is there to replace the old ones.

Q. But is the old rope worth nothing?

A. No; not by our way of rigging. Yes, they are not worth anything; if it was hemp rigging it would be worth something.

Q. What is it?

A. It is wire.

Q. You speak confidently about the hawser of the Sif having parted.

A. I don't know whether it parted or was cut, but I know it was gone.

Q. Having been disconnected?

A. Yes.

Q. Did you see it?

A. Yes.

Q. How long was that before the collision?

A. Probably two minutes.

Q. You say you heard the order given to put the helm hard aport?

A. Yes.

Q. And cut the hawser?
A. Yes.
Q. Who gave that order?
A. That I could not say. Somewhere forward, either aboard
222 *either aboard* the Equator or the Sif; I could not say which.
Q. It was not on board your own vessel?
A. No.
Q. It was immediately obeyed?
A. Yes.
Q. How long was that before the collision?
A. Two minutes.
Q. You were then fast?
A. No; it was just before we were fast.
Q. Did she obey her helm when it was put hard aport?
A. Immediately.
Q. How far did she go after her helm was put hard aport?
A. Perhaps once her length.
Q. How was she heading when the collision took place?
A. About northeast.
Q. How was the Sif heading?
A. West by south, or west-southwest.
Q. When the hawser was cut between you and the Equator where did the Equator go?
A. She still remained ahead of me some distance.
Q. In a straight line?
A. No; she went off the port bow a little ways.
Q. What was her relative position to the Sif at that time;
223 was she between you and the Sif?
A. She was the starboard quarter of the Sif; northward of the Sif; past the Sif.
Q. Did she pass under her stern?
A. Yes.
Q. How close?
A. Probably thirty or forty feet.
Q. You saw her when she passed under the stern of the Sif?
A. Yes.
Q. How far was the Equator then from you?
A. I had about sixty or seventy fathoms out.
Q. At the time she passed under the stern of the Sif?
A. No; but when it was cut, and she shot ahead half that distance there.
Q. Then she was about ninety fathoms ahead of you when she passed under the stern of the Sif?
A. Yes.
Q. How long was it from the time the hawser was cut until she did pass under the stern of the Sif?
A. Immediately.
Q. What damage was done on board the Sif, that you could see?
224 A. Her mainmast was carried away and her foremast, and her mizzen-topmast; that is all I could see.
Q. All the upper rigging on those masts came down?
A. Yes; the rigging came down with the masts.
Q. What kind of a ship is the Sterling?
A. A full-rigged ship; on her second voyage.
Q. A new ship?

A. Yes.
Q. What I meant was in regard to the material of her construction?
A. A No. 1.
Q. Whether of iron or wood?
A. An oak frame and hard pine.
Q. How long was it from the time you weighed anchor outside the bar to the time the collision took place?
A. It may have been about an hour; perhaps a little over.
Q. How far was the distance between the two points?
A. From a mile to a mile and a half.
Q. When you started and weighed anchor outside the bar, was not the Sif on the bar at the time?
225 A. I did not take notice when we first started.
Q. Did you see her after you started?
A. Yes.
Q. How long was it that you saw her before the collision took place?
A. Perhaps about fifteen minutes that I took notice of.

Redirect by E. D. CRAIG, Esq.:

Q. In your judgment, if the hawser of the Sif had not parted, what would have been the effect as to the collision?
A. I don't think there would be any collision at all. If there had been one it would have been a very light one.
Q. In your judgment, if the hawser had not parted, you think the Sif would have gone clear of the Sterling?
A. Yes.

(Signed) J. G. BAKER.

Sworn to and subscribed before me this 26 day of May, 1874.

(Signed) J. A. CHARBONNET,
D'y Clk.

Personally appeared before me John O. Loghlen, stenographer,
226 who, being sworn, deposeth and saith that the foregoing twenty-two (22) pages contain a full and correct transcript from his stenographic notes of the *the* testimony of Captain James G. Baker taken May the 21, 1874.

(Signed) JOHN O'LOGHLEN.

Sworn to and subscribed before me this 27 day of May, 1874.

(Signed) CHAS. S. RICE,
U. S. Commissioner.

To be filed by consent.

(Signed) HORNOR & BENEDICT,
For Libellant.

5-30, '74.

Testimony for libellants.—Filed by consent July 8th, 1874.

United States district court.

R. M. PETERSON & AL.
vs.
SHIP STERLING & TOWBOAT EQUATOR. } No. 10496.

Testimony taken by consent in the office of Hornor & Benedict, New Orleans, May 8, 1874.

Joseph P. Hornor, esq., for libellants; E. D. Craig, esq., for claimants.

227 Testimony George Lorange, 25 exhibits, reported by C. W. Colton, phonographer, No. 16 Carondelet street.

CARL GEORGE LORANGE sworn and examined on behalf of libellants.

By Mr. HORNOR:

Q. You are the captain of the Norweigian bard Sif?

A. No more, sir; I was.

Q. You were captain of her at the time the collision took place down at the bar?

A. Yes, sir.

Q. On the fifteenth of March last, 1874?

A. Yes, sir.

Q. What is the size of the Sif?

A. Four hundred and fifty-six American tons.

Q. At the time of the collision what business was the Sif employed in?

A. Carrying a cargo of cotton from New Orleans to Havre.

Q. What time did you leave the port of New Orleans?

A. I can't recollect the date.

Q. What day of the week was it that the collision took place?

A. It was Sunday morning, Sunday at noon.

228 Q. How many days before that had you left New Orleans?

A. Nearly a week.

Q. When you left New Orleans how did you leave?

A. I left in tow of the Sentinel.

Q. How far down did she tow you?

A. As far as Pilot Town.

Q. What time of day was it that you arrived at Pilot Town?

A. In the forenoon of the following day. I was one night and a little of the forenoon going down.

Q. What time did you arrive there?

A. In the morning at seven or eight o'clock, I believe.

Q. Why didn't you go over the bar at once?

A. The bar was blocked at that time by one of the German steamers.

Q. Do you know her name?

A. I do not, sir. That was the one previous to the Vandalia.

Q. It was on account of her being on the bar that you did not attempt to go over?

A. Yes, sir; no pilot came to bring me over. They told me that they couldn't bring me over.

229 Q. How long did you remain at that anchorage at Pilot Town?

A. Six or seven days.

Q. You proceeded on the fifteenth of March?

A. Yes, sir.

Q. About what time did you heave anchor and commence to leave Pilot Town?

A. Seven in the morning.

Q. In tow of what steamboat?

A. Lone Star.

Q. What did you do?

A. We weighed anchor, and she swung us alongside, and when she had us in tow, fairly started, she shifted forward, and we towed towards the bar; but when we came quite close we had to bring up, because the bar was blocked again by an American steamer that had just passed when we were weighing ancher; a small steamer it was. Then we anchored again below all the shipping.

Q. And stayed what time?
A. We laid there to anchor until very nearly twelve o'clock.
Q. Then what did you do?
A. Then the Philip came alongside of us and she swung the vessel.

230 *A.* She took a line from the bow. Then we weighed anchor and swung to the eastward, but it didn't go rapidly with the swinging because the tow-line came afoul of the anchor that was hanging before the bow. Then the vessel took aground on the eastern side of the channel, but she didn't stop any moving and she paid off to the westward again, when the jib and flying-jib were hoisted. Just when the vessel was playing off, an American three-masted schooner came in, and to avoid collision with her we had to anchor again. We anchored with the starboard anchor, and then our vessel cut over and took the ground on the western side. We then hove anchor home, hove it to us again, and shifted our tow-line from the port bow to the port stern-pipe, and the Philip took hold of it there and she pulled us astern and up the river against the tide. I mean to say that she pulled against the current. Her head was against the current and the tow-line towards aft, pulling at our stern. Then she moved away very slowly, which I watched by the lead. The pilot told me to watch her by the lead and tell him how she was moving. Then when that steamer, the

231 Philip, had pulled on us astern for, I will say, a quarter of an hour, the Lone Star went ahead of the Philip and got a line, I believe, from the Philip, *and got a line, I believe from the Philip* and then, by the force of those two boats, the vessel came with her stern more up against the current, and she moved more rapidly than before. The joint effect of the current and these two boats was to bring her over to the other side, the eastern side, of the channel, and perhaps a little up the stream. There on the east side she grounded close to the red buoy on the eastern side. There she remained still.

(Mr. Craig objected on the ground that the witness was contradicting the allegation of the libel.)

WITNESS. There she remained still and the pilot sung out to our boats to let go our hawser, and that was cut on board of the boat.

Q. Cut on board of what boat?
A. On board of the Philip, and we hauled it in and saw the end of it; by which I believe it was cut.

Q. What took place while you were there?

232 A. While we were there, a few minutes after we were stopped, the ship Sterling, in tow of the Equator, ran right into us, and the steamer went close astern of our vessel, still towing. When the Sterling struck us the tow-line tightened.

Q. Whose tow-line?
A. The tow-line of the Sterling tightened and jumped up along our port quarter, broke the bumpkin of our braces, came in over the quarter, where we awhile afterwards cleared it out when they were hauling it on board of the Sterling. A couple of men, I recollect, were specially occupied in hauling in that manilla line.
Q. Where had the Sterling been before this accident took place?
A. She had been approaching the bar.
Q. But before she had been approaching the bar?
A. She had been to an anchor outside.
Q. What time did she get up her anchor?
A. I don't know.
Q. How long did you see her before she struck you?
A. I think I saw her ten minutes before.

Q. When the collision took place were you afloat or aground?
233 A. Aground.
Q. Were you hard aground?
A. Yes, sir.
Q. Not moving at all?
A. No, sir.
Q. How long had you been hard aground, not moving at all, before the collision took place?
A. Three, four, or five minutes.
Q. How far had you moved during the ten or fifteen minutes preceding that? How many ship's lengths?
A. A couple of ship's lengths only.
Q. How long is your ship?
A. A hundred and thirty-six feet.
Q. Do you know what the width of the channel is there?
A. I have looked on the chart.
Q. Did you look at the channel itself? I mean from the west bank, where you were first aground?
A. My judgment according to those two buoys, I believe, and I am told——
Q. Don't mind what you were told.
A. I believe it is a hundred and fifty feet.
(Mr. Craig objected to what the witness believed.)
Q. State what you believe the distance to be between those two
234 buoys, from what you saw there?
A. To my best judgment, I think it to be a hundred and fifty or a hundred and sixty feet.
Q. Captain, when the Sterling struck you how fast was she going?
A. At least four knots over the ground.
Q. How much distance was there between your stern and the buoy on the east side of the channel at the time she struck you?
A. The buoy was abreast of us, between the mizzen and the main chains.
Q. How far was it from you?
A. It was not more than five or six fathoms.
Q. From the Sif?
A. From abreast of your mizzen-chain.
Q. How much water was the Sif drawing?
A. Fourteen feet eight aft, and fourteen feet forward.
Q. Do you know what water the Sterling was drawing?
A. No, sir.
Q. Do you know what water the Equator was drawing?
A. Not from looking. I only heard so.
Q. What part of the Sterling was it that struck you?
235 A. The first thing that came in collision was her flying jib-boom and jib-boom.
Q. What part of your vessel did they come in collision with?
A. It came in between the foretopmast-backstay and fore-rigging, and came into the main*mast* topmast-stays.
Q. What next struck you?
A. The next was the bowsprit-cap and the anchor.
Q. Did the hull of the Sterling strike you at all?
A. I can't exactly say that there were marks on the rail that made me believe that the bobstays touched against the rail; but the marks in the copper, and other marks above the same are made by the anchor of the Sterling.

Q. Where was the Sterling's anchor?
A. Hanging at the bow.
Q. At her cathead?
A. No, sir; at her pipe.
Q. That is nearer the bow than the cathead?
A. Yes, sir.
Q. Almost in front of the bow?
A. Yes, sir, in front of the bow.
Q. Now state the damage that was done on board the Sif by the collision.

236 A. Fore and main mast broken, fore and main topmast broken, main topgallant-mast and royalmast broken, mizzentopmast broken, mainyard broken, maintopgallant-yard broken. In the rigging there was broken four shrouds, or two pairs of shrouds a' you perhaps call it, in the forerigging, the two fore-backstays on the port side, maintopmast-stays, foretopmast-stays, one foretopgallant, backstay, main-royal-stay, maintop-sail, maintopgallant-sail chafed, a few cloths in the middle. The damage on the hull was four sheets torn on the copper, one blow above the copper, by which some tree-nails were started, and two planks damaged, but we only cleared it off and caulked it; we didn't have to shift them. The rail on the port side and port bow and the monkey-rail were damaged. Two chain-plates on port side were bent, and the bolts forced so that we had to draw them. On the starboard side the rail and monkey-rail were broken by the down-fall of the mainyards, and one chain-plate was forced.

237 I think that is the actual damage done at the moment.

Q. Now, captain, did that damage render it necessary that you should come back to the city?
A. Yes, sir.
Q. Why did it render it necessary?
A. To get new masts.
Q. You could not get those down at the bar?
A. May be I could, but it would have been too much loss of time and too much expense.
Q. Captain, when you got back to the city did you discharge your cargo?
A. I had to discharge the cargo to step the new masts.
Q. You could not do that without it?
A. No, sir; the cotton was stowed close to the masts.
Q. Now, captain, was it possible for you to do anything on board of the Sif to prevent that collision taking place?
A. Not that I know of.
Q. Were you in charge of the ship or was the pilot?
A. The pilot, Mr. Douglas, was in charge of the ship.

238 Q. At the time that the cable was cut that the Philip had tied to the Sif, move on account of the cutting of that cable?
A. No, sir.
Q. Captain, could anything have been done on board the tow-boat Equator to avoid that collision?
A. Yes, sir.
Q. What could have been done?
A. They could have stopped their speed long before.
Q. And waited until you got over?
A. Yes, sir.
Q. What could she have done?
A. She could have run aground, and could have anchored.

Q. If she had run aground would that have prevented the collission?
A. Certainly, if she had stopped.
Q. If she had let go her anchor would that have prevented the collision?
A. Certainly it would; we have anchors to stop our vessels.
Q. They did not anchor on board the Sterling?
A. No, sir.
Q. Did you notice whether there was any alteration in the helm of the Sterling before the collision took place?
239 A. I couldn't say that.
Q. Did you hear any orders given for that?
A. No, sir.
Q. Did you hear any orders given by the pilot Douglas, on board of your vessel to the Sterling?
A. He sung out to them.
Q. What did he sing out; what did he say when he sung out to them?
A. I don't recollect.
Q. Look at that bill, and state whether you paid it. (Shown Exhibit No. 1.)
A. I paid it, sir.
Q. Was that bill occasioned by this collision?
A. Yes, sir. The paper marked Exhibit No. 1 is annexed hereto.
Q. Look at this bill, captain (shown Exhibit No. 2), and state whether you paid that.
A. I paid it, sir.
Q. Was that one of the expenses incurred by this collision?
A. Yes, sir.
Q. Telegraph on account of the collision?
A. Yes, sir.
(Mr. Craig reserved rights to object to this document on the trial of the cause.)
240 (The document marked Exhibit No. 2 is hereto annexed.)
Q. Did you send any other telegrams not included in that bill?
A. No, sir; I received answer, and I received a telegram from New York.
(Mr. Craig objected to the last answer as irrelevant.)
WITNESS. I received a telegram from New York.
Q. Were they on account of the collision?
A. Yes, sir.
Q. Did you pay anything for that?
A. I did not pay.
Q. Is this the only one that you paid.
A. Yes, sir. I wrote for the vouchers for the other.
Q. Did you pay any one but that.
A. No, sir.
Q. That is the only one?
A. Yes, sir.
Q. Look at that bill, captain. (Shown Exhibit No. 3 hereto annexed.) Did you pay that?
A. Yes, sir, I paid it.
Q. That was for towing you to the city after this collision took place?
A. Yes, sir.
Q. On account of the collision?
A. Yes, sir.

241 Q. Look at this bill (shown Exhibit No. 4 hereto annexed), and state what that is for.

A. That is for towing to Algiers warehouse, and from Algiers warehouse over again to the government wharf.

Q. Why were you towed down to the Algier's warehouse; for what purpose?

A. When I had my cargo in I moved from Algiers warehouse to Brooklyn warehouse, where I fitted up the masts.

Q. This was to take you back there to get your cargo?

A. No, sir; that was when I had got my cargo in I towed to Brooklyn warehouse, and from Brooklyn warehouse over to government wharf.

Q. That is for that towage?

A. Yes, sir.

Q. That is when you got your cargo in?

A. Yes, sir.

Q. And after the repairs were finished?

A. The last moving was after the repairs had been finished.

Q. Did you pay this bill? (Shown Exhibit No. 5 hereto annexed.)

(Mr. Craig reserved objections to this bill.)

A, Yes, sir; I paid it to Seymer.

Q. Was it incurred on account of the collision?

242 A. Yes, sir.

Q. Look at this. (Shown Exhibit No. 6 hereto annexed.) Have you paid that?

A. Yes sir; I have paid it.

Q. Is that on account of the collision?

A. Yes, sir.

(Mr. Craig reserved objections to this bill.)

Q. Did you pay that bill? (Shown Exhibit No. 7 hereto annexed.)

A. Yes, sir; I did.

(Mr. Craig reserved objections to the bill.)

Q. Was that bill incurred on account of the collision that took place between you and the ship Sterling and tow-boat Equator?

A. Yes, sir.

Q. Captain, have you paid anything to the Crescent Insurance Company for insuring a part of the cargo in store during the time that your repairs were going on?

A. Yes, sir.

Q. How much have you paid to them?

A. I must see on the account. (Shown account.)

A. Do you remember how much it was?

A. Twenty-seven dollars and fifty cents.

243 Q. Have you paid anything to the Sun Insurance Company for insuring a part of the cargo that remained in store while your vessel was being repaired?

A. Yes, sir.

Q. Do you remember how much you paid them?

A. The same amount, I believe.

Q. Are you sure it was the same amount?

A. No, sir; because one was more.

Q. Have you paid anything to the Merchants' Insurance Company for insuring a part of the cargo in store while your vessel was being repaired?

A. Yes, sir.

Q. How much did you pay them?

A. Twenty-seven dollars and a half.

Q. Are you sure it was?

A. I tell you one of them I paid more to, because they insured the cargo that went to the pickery.

Q. You are not sure of any of these figures?

A. Not to my memory.

Q. Have you paid anything to the Home Insurance Company to insure part of the cargo in store while your repars were being made?

244 A. Yes, sir.

Q. Do you remember how much you paid them?

A. Three were equal and one was more.

Q. If you don't know say so.

A. I don't recollect exactly the amount.

Q. Did you pay that bill? (Shown Exhibit No. 8 hereto annexed.)

A. Yes, sir.

Q. Was that expense rendered necessary by the collision?

A. Yes, sir.

(Mr. Craig made the same reservation.)

Q. Look at that bill, and state whether you paid it. (Shown Exhibit No. 9 annexed hereto.)

A. I paid it, sir.

Q. Was that bill rendered necessary on account of the collision that took place?

A. Yes, sir.

(Mr. Craig made the same reservation.)

Q. Look at this bill. (Shown Exhibit No. 10 annexed hereto.) Have you paid that bill?

A. I paid it, sir.

Q. Was it rendered necessary on account of the collision that

245 took place between you and the ship Sterling?

A. Yes, sir.

Q. Look at these two bills, captain (shown Exhibit No. 11 and Exhibit No. 12), and state whether you paid those bills.

A. I have paid them, sir.

Q. Were those bills and the charges rendered necessary by the collision which took place between you and the Sterling?

A. Yes, sir.

(Mr. Craig made the same reservation.)

Q. Look at that bill (shown Exhibit No. 13), and state whether you have paid it.

A. I paid this one, sir.

Q. Was it rendered necessary by the collision that took place between you and the ship Sterling?

A. Yes, sir.

(The paper marked Exhibit No. 13 is hereto annexed.)

Q. Look at this bill (shown Exhibit No. 14 hereto annexed), and state whether you paid it.

A. I have paid it.

Q. Were the items of that bill rendered necessary by the col-

246 lision that took place between you and the ship Sterling?

A. Yes, sir.

Q. Have you paid that bill? (Shown Exhibit No. 15 hereto annexed.)

A. I have paid it, sir.

(Mr. Craig made the same reservation.)

Q. Were the items charged in this bill rendered necessary by the collision that took place between you and the ship Sterling?

A. Yes, sir.

Q. Look at these bills. (Shown Exhibits No. 16, No. 17, No. 18, and No. 19.) Did you pay these bills?

A. Yes, sir.

Q. Were the items of those bills rendered necessary by the same collision?

A. Yes, sir.

(Mr. Craig objected specially to Exhibit No. 16, as having been incorporated and paid in Exhibit No. 19, the bill of Kelly & Lahman.)

(The said Exhibits Nos. 16, 17, 18, and 19 are hereto annexed.)

Q. Did you pay this bill? (Shown Exhibit No. 20 hereto annexed.)

A. I have paid it, sir.

247 Q. Was it rendered necessary by the collision?

A. Yes, sir.

Q. Did you pay this bill? (Shown Exhibit No. 21 hereto annexed.)

A. Yes, sir.

(Mr. Craig objected.)

Q. This bill was paid in consequence of the collision?

A. Yes, sir.

Q. Did you pay that bill? (Shown Exhibit No. 22 hereto annexed.)

A. Yes, sir.

Q. What were those professional services for?

A. Splicing the arm of my mate, which was broken by the falling of the masts at the time of the collision.

(Mr. Craig specially objected to this bill on the ground that it was a damage to the mate and not to the ship.)

Q. Did you pay this bill? (Shown Exhibit No. 23 hereto annexed.)

A. I paid more than that, but I made the bill for that amount; I estimated it at that.

(Mr. Craig objected.)

Q. Did you pay that bill? (Shown Exhibit No. 24 hereto annexed.)

A. I have that expense.

248 Q. Was this bill incurred during the time you were detained on account of the collision?

A. Yes, sir.

Q. Have you paid this bill? (Shown Exhibit No. 25 hereto annexed.)

A. I have *have* not yet paid it out, but that is due to the crew. I will have to pay it.

Q. For their wages?

A. Yes, sir.

Q. From the time of the collision to the time that she was repaired?

A. Yes, sir.

Q. What time were the repairs on the Sif completed?

A. On the first of May.

Q. When did the Sif go to sea?

A. On the sixth of May.

Q. Now, captain, from the time the collision took place on the fifteenth of March, until the first of May, when the repairs were completed, what do you estimate the amount of damage sustained by the bark Sif and owners for demurrage by being detained in the city of New Orleans during that time?

A. In the three charter-parties that I had before the demurrage has been ten pounds a day.

249 Q. I ask you how much money could the Sif have made for her owners between the fifteenth of March and the first of May if she had not met with this accident?

(Mr. Craig objected.)

A. I would have been in France—I hoped to have been in France—in all probability and out of there again.

Q. How much money would you have made in that way?

A. My freight is ten thousand dollars, and if I only reckoned the half of that for our benefit, I think I would have made at least that.

Q. You think you would have made half of it as profits?

A. My freight is two thousand pounds. I would spend eight hundred pounds; that would be twelve hundred left, and half of that would be six hundred pounds.

Q. Six hundred pounds would have been your profit on that voyage?

A. Yes, sir.

Q. Would you have made that voyage in that time, between the 15th of March and 1st of May?

A. Well, it is a long voyage to Havre, six weeks; six weeks
250 would be a long voyage.

Cross-examined by Mr. CRAIG:

Q. Captain, I understood you to say that the collision took place on the fifteenth day of March?

A. Yes, sir.

Q. What day did you start out of the port of New Orleans? How many days before that?

A. I believe it was seven days after that.

Q. How long were you going to the pilot station or pass?

A. One night and part of the morning.

Q. So you arrived there about six days before the collision?

A. Yes, sir; I think so.

Q. When did you first discover this German steamer across the bar?

A. We saw her directly after we came down, and I was out there several times to look at her.

Q. Were you aboard of her?

A. No, sir; I was not.

Q. What was the name of this German steamer?

A. I don't know, sir.

251 Q. How many days was the German steamer on the bar?

A. I don't know, sir.

Q. Was she on the bar the day of the collision?

A. No, sir.

Q. How many days before the collision did she get off?

A. The night between Sunday and Saturday she came off.

Q. You mean the Saturday before the collision?

A. Yes, sir; just previous.

Q. When was the Vandalia on the bar?

A. The Vandalia wend down on the bar on Saturday.

Q. The Saturday before?

A. The same Saturday that the other came out in the night; the Vandalia went out and threw herself on the bar in the middle of the day.

Q. That was the middle of Saturday?

A. Yes, sir.

Q. How do you know that it was the Vandalia?

A. I know that, because I have had enough speaking of the Vandalia, being so long on the bar?

Q. Did you see her name on her?

A. I can't say that I did.

252 Q. Is not your knowledge that it was the Vandalia derived from other persons? Did not some one tell you that it was the Vandalia?

A. Either I saw it with the spy-glass when she passed me, or I heard it from others; I don't recollect which.

Q. You cannot positively swear from your own information that that was the Vandalia?

A. Yes, sir; I can.

Q. You can positively swear to it from your own information, from your own knowledge?

A. Yes, sir.

Q. Do you know what I mean by information or knowledge?

A. Yes, sir. I am quite convinced that it was the Vandalia.

Q. Do you know of your own knowledge that it was the Vandalia?

A. Yes, sir; I do.

Q. You read her name?

A. I read her name; yes, sir; I must have read her name.

Q. Do you know when you read her name? Do you remember of having read it?

A. No; I don't remember it.

253 Q. Then, how do you know that it was the Vandalia?

A. Steamers are not so many as persons passing about and I know that the Vandalia passed us the Saturday before. I have nothing to confuse her with.

Q. How did you know that this was the Vandalia the Saturday before?

A. I have read in the newspapers that the Vandalia was leaving, and have seen her daily in the newspapers, "Vandalia still on the bar," "Vandalia still on the bar."

Q. How many days was that before the collision?

A. From Saturday to Sunday is one day.

Q. How many times did you see it in the newspapers?

A. I was looking for it every day until I saw her getting off.

Q. How large a ship is the Vandalia; how long is it?

A. She is a boat of fine length.

Q. How many feet?

A. I guess her to be between two hundred and fifty or three hundred feet.

Q. How long was this other German steamer that you speak of?

254 A. I believe they were both of the same size.

Q. Didn't they look a great deal alike?

A. Yes, sir.

Q. Might not the one be mistaken for the other by persons who were not perfectly familiar with them, that is persons who didn't know them?

A. Yes, sir; they are alike.

Q. They might be mistaken then?

A. Well, two steamers alike might be mistaken one for the other.

Q. Now, captain, have you been often to this port?

A. No, sir.

Q. How many times have you been here before this trip?

A. Never before.

Q. Then you are a stranger here?

A. No more now; I have looked around pretty much; I haven't a long time to make myself at home and feel comfortable.

Q. What I mean is that you have never been to New Orleans before the 15th of March?

A. Yes, sir; before the 15th of March; I came up the month before, the 15th of February.

Q. Did you ever sail to this port before?

255 A. No, sir.

Q. Do you consider yourself well acquainted with the bar of the Mississippi?

A. Yes, sir; at present.

Q. Were you at the time of that collision?

A. Yes, sir; I had been three times with my gig pulling around the German steamer, standing on the ground looking at the English bark that was nearly ruined by her, and I was there sounding with my oars on both sides of the channel when I went up and down.

Q. Are you well acquainted with the current of the Mississippi River?

A. Well, I have seen the eddies there and the current.

Q. Did you ever see the Mississippi River at low water?

A. No.

Q. Do you know whether there is any difference at the bar between low water and high water, of your own knowledge?

A. No; I can't know that, I only know what I read. I take my book of directions for that.

Q. Do you know anything about the shifting of the bottom of the river?

256 A. Not that I have observed personally; only heard it by what I have been reading.

Q. You have, then, no practical experience with regard to the bar of the Mississippi River?

A. No more than what I have observed by this passing out and in, and the three times that I was down with my gig.

Q. That is the sum of your experience?

A. Many don't take that trouble.

Q. Now, captain, you said something about the bark being aground; where did she first strike aground, on the east or the west side of the channel?

A. Where we struck, she struck the ground on the east side of the channel.

Q. And where next?

A. Then we had anchored for the American schooner; she cut over to the next side of the channel.

Q. What time was it that she was on the west side of the channel?

A. Well, I will say a quarter past twelve.

Q. On Sunday?

A. On Sunday; yes, sir.

257 Q. Then did she go back again to the east side?

A. She went again to the east side when the two steamers came pulling at her.

Q. When you first discovered the Sterling coming up, where were you—on the east or west side?

A. When I first discovered her we were still on the west side, moving towards the east.

Q. In what direction was the bow of the Sif pointing at the time she was on the west side, at the time you spoke of just now? How was she pointing?

A. I must have it clear what moment you mean.

(A couple of pages of previous testimony were read to the witness.)

WITNESS. If the channel run south-southwest she was pointing west-northwest, as long as the Philip had hold of her.

Q. What about the Lone Star?

A. But when the Lone Star got hold of her I think she pointed west, and that brought the current to strike her on the starboard side, and brought her over.

Q. Now you said something about the pilot singing out some-
258 thing, who did he sing out to?

A. I am not sure to which one of the boats he sung out to.

Q. What did he say?

A. He sung out, "Let go, let go."

Q. What did he refer to; to the hawser?

A. To the hawser; yes, sir.

Q. Was the hawser of the Sterling cut about that time or not?

A. He didn't give any orders concerning the hawser of the Sterling, so far as I know or remember. When I speak of letting go, I speak of when he was turned towards those two boats towing us.

Q. Was the hawser of the Sif cut or did it break?

A. It has been cut.

Q. Was it cut at the time of the collision to separate the tow-boats from the bark.

A. It was cut some time before the collision.

Q. Did you see it cut?

A. I did not.

Q. Then you did not see any one cut it on board of the Philip?

A. No, sir; I did not.

Q. But you said it was cut on board of the Philip?

259 A. Yes, sir; but I saw the end.

Q. I give you notice that they will all swear on board of the Philip that it was not cut on board *on board* of the Philip.

A. Very well, sir. The end that came in was neat and clean. The yarn was broken or separated on the very same spot; and I have never seen a rope broken that way, for the strands will always be out of order by breaking.

Q. Did you see the end of the hawser on board of the Philip?

A. No, sir; I never saw that any more.

Q. So you don't know from the end on board of the Philip, whether it was cut or broken?

A. No, sir; I have never been on board of the Philip and they never brought us that end.

Q. How long was it after it was parted or cut that you hauled it in on board of the Sif?

A. I think ten minutes afterwards.

Q. Was the end perfectly square cut off? What I mean is, was it smoothly done? What was the appearance of the end that you hauled in?

260 A. It was just like a brush, because when there is no whipping and laying in the water it will come out a little and be like a brush.

Q. Were some of the stands longer than the others?

A. No, sir; they were nice and clean and the appearance of a brush.

Q. Was not this cut by order of the pilot of the Sif?

A. He sung out "let go," and I didn't understand that it referred to anything but the ropes.

Q. How long after he sung out "let go" was it that the rope parted or was cut?

A. That was momentary; it was just like his order was obeyed.

Q. But you didn't see it done?

A. No, sir.

Q. What part of the ship were you in when the collision took place?

A. At the moment of the collision I was by the wheel. I was just to windward, and I just came far enough to reach the corner of the house or of the cabin, but I had a struggle to get up.

Q. How far was that from the stern of the Sif?

261 A. Well, that is only ten or twelve feet from the house to the aft rail.

Q. Were you on the starboard or the port side?

A. I went from the starboard, and during the collision I went over towards the port.

Q. Went over towards where the collision was?

A. No, sir; the collision was forward and I was aft; but she heeled so much over that I had some trouble to get there.

Q. What was done immediately after the collision to the Sif, or with the Sif?

A. For some time we didn't do much.

Q. When you did do anything, what was done for it?

A. The first thing done by us was hauling or clearing the hawser of the Sterling over our stern.

Q. What was the next?

A. The next thing I don't remember clearly.

Q. Was anything done to get her away from the Sterling?

A. No, sir; not from our part.

Q. Did any tow-boat come up to assist you?

A. Not until the Sterling had well dropped off from us.

262 Q. The Sterling went off first?

A. Yes, sir; she went off first. Her jib-boom and flying-jib were broken over our broken top. As soon as that was clear then the current took her clear of us a little way.

Q. Are you one of the owners of the Sif?

A. For one quarter.

Q. You said you were not master of the vessel now?

A. No, sir; I am not.

Q. Who is the captain of her now?

A. Captain Hans Petersen.

Q. He was one of your mates?

A. No, sir; he is an old captain.

Q. You expect to take command of her again?

A. I hope so.

Q. You are detained only for private reasons now, are you not?

A. Yes, sir.

Q. At the time of the collision, was your vessel hard aground astern or in the forepart; the bow or the stern?

A. She was hard aground all along, to my judgment, because she didn't move; if she had only been aground astern, she would be swung more out with the bar as I have reason to believe.

263 Q. Was she aground with her stern at the time of the collision?

A. Yes, sir.

Q. Was the bow aground at the time of the collision?

A. I believe so.

Q. Well, she was aground all around, then?

A. She had a bank all around her port side.

Q. How long before she was aground at the time you speak of had she been moving?

A. When the tow-boats didn't tow any more, I will say it was three, four, or five minutes since that time she had not moved.

Q. Was the hawser of the Sif cut or parted before the collision? Did I understand you to say that?

A. Yes, sir; it was.

Q. How long before?

A. Some time.

Q. How long before the collision?

A. Three or four or five minutes.

Q. Did the Sif move after the hawser was cut?

A. No.

Q. She stopped all of a sudden, then?

A. She went bodily over then, and got the bank all along her
264 port side, inside of that lump upon which the red buoy is laying. The pilot has explained to me this, and that is what I know.

Q. This information that you are now giving me, did you not derive some of it from the pilot?

A. My judgment tells me it is so, but naturally I did not sound along the vessel.

Q. But you found out those things from the pilot, then?

A. Not at all.

Q. How did you find it out?

A. By my seeing how the vessel behaved.

Q. What means had you to calculate that the Sterling was moving four knots an hour over the bottom?

A. My judgment, sir.

Q. What do I understand you to mean by your judgment? What do you mean by your judgment? What do you mean when you say "my judgment tells me so"?

A. A ship-master for twelve years, I am able to judge of the speed of a vessel. I will tell you how I can judge it. If you walk your five path you walk four knots.

265 Q. Do you know what rate per hour the current ran at that place?

A. Well, I think I know.

Q. Do you know from your own knowledge?

A. I know from my own knowledge that three men in my gig will have to pull hard to stop it.

Q. How far did the current run there?

A. Well, the current was running nearly four knots, I believe; perhaps more.

Q. Then the Sterling, as I understand, was moving against this current?

A. Certainly; she had good wind *a* and a strong boat to tow her.

Q. You say you went over to the port side; why did you go over to the port side?

A. Because I was afraid that the vessel would heel so badly over that I might be drowned on the starboard.

Q. Did you pay this bill yourself personally? (Shown Exhibit No. 1.)

A. Yes, sir.

Q. What was the object of this dispatch (referring to Exhibit No. 2) for twenty-five dollars?

A. That was to inform my owners that the collision had taken place.

266 Q. That is the co-owners—the other owners—the joint owners with yourself?

A. Yes, sir.

Q. What was this wharfage bill? (Referring to Exhibit No. 5.)

A. I had made an agreement to remain down at Algiers warehouse as long as I took in the cargo, and when the cargo was in they wouldn't allow me to remain there any more, and I wouldn't remain in the stream. I found that unsafe. I then went up to McCloskey's, the manager of that.

Q. State what that was for.

A. That was for the time that I was laying outside of Brooklyn warehouse. I couldn't find Mr. McCloskey and I delivered the money to Mr. Seymer, and I hope he has delivered it safely.

Q. What do you mean by paying wharfage there?

A. To be allowed to lay alongside of the wharf in Algiers for ten days at Brooklyn warehouse.

Q. Here is G. Schneidan's bill. How many surveys did you have of this bark? (Referring to Exhibit No. 6.)

267 A. I had one survey when they came there the first day and examined the damages, and I had the second survey when everything was ready.

Q. Was this for the first survey or second survey?

A. That is for the second survey.

Q. Did you pay all that money over—that hundred dollars?

A. Yes; I paid it over.

Q. How many times did you break the cargo out? (Referring to Exhibit No. 7.)

A. One time.

Q. Was not your mast stepped and then taken out again?

A. The mast was stepped, and a few hours afterwards we lifted it because Mr. Hanson had made a wrong length—one foot and a half too long.

Q. Who paid that extra expense of lifting the mast again?

A. Well, I made no charge against Mr. Hannon for it.

Q. Did Mr. Hannon make any charge against you for it? Did any one make a charge against you for lifting it the second time?

A. No, sir; there is no charge made against me. I had four

268 riggers, and I had my own men.

Q. They didn't charge you extra for that?

A. No, sir. I had the riggers by the day, and you may consider how much time.

Q. Then that lifting of the mast again all went in by the day?

A. Yes, sir.

Q. How many days did it take you to lift the mast again?

A. It took me three hours.

Q. How many men?

A. We had the crew and four riggers.

Q. What do you mean by horse hire, labor, and tools?

A. What I mean by horse is that there was a horse at the end of the runner by which we discharged the cargo.

Q. How much was the labor of the horse worth?

A. Well, in fact, I don't remember that.

Q. Could you tell how much the tools were? You have got here

labor, horse hire, and tools, breaking out and discharging 743 bales of cotton and 1,000 staves, $307.50.

Q. How much was the horse hire and tools?

269 A. I examined that at the time I paid the bill. I saw Mr. Seymer about it.

Q. What was the breaking out and discharging of the cotton worth per bale?

A. A dollar and twenty cents is my agreement for breaking out and storing. I made an agreement for a dollar and twenty cents per bale; I mean from bringing it to the store and back to the ship. I was up in the cotton-presses and couldn't get it less than a dollar and thirty cents.

Q. That includes everything—storing, transporting, rent, and everything?

A. Yes, sir; everything, store rent and all stuck in, and it is the same contract when I paid last, when the same came into the vessel the first time.

Q. Then, for discharging, transporting, storing, and store rent you paid a dollar and twenty cents per bale?

A. For transporting from the ship to the storehouse and storing and bringing back to the ship I paid a dollar and twenty cents. Breaking out I could get nobody to understake by the job, and I would let anybody undertake it by the job.

Q. This included the restowing of the cotton?

270 A. No, sir; restowing is another business.

Q. Who was that restowing done by?

A. By some parties.

Q. Who by?

A. Mess. Thompson & Seymer.

Q. They stowed it back again?

A. Yes, sir.

Q. How much did you pay the riggers per day?

A. I paid the riggers four dollars and a half and the foreman five dollars.

Q. How much did you allow for the use of your own men?

A. I have made no charge but what is afterwards.

Q. What charge did you make afterwards?

A. Food and wages.

Q. You included that in their wages?

A. I included that in their wages; they were in the ship's service.

Q. You included that in the rigging bill?

A. No, sir; I included it in the bill that I made for provisions and wages.

Q. Then what you are speaking of is that they assisted in all of this labor?

271 A. Yes, sir; they did the principal part of it.

Q. You considered that part of their duty as sailors?

A. Yes, sir; it is their duty as sailors?

Q. How long did you employ those riggers?

A. I have a list—the mates list.

Mr. HORNOR. Just answer the question of the gentleman.

WITNESS. I can't remember.

By Mr. CRAIG:

Q. Here is a bill for inspecting and attending to the breaking out and stowing back of 743 bales of cotton at one dollar a bale, did you pay that bill? (Exhibit No. 9.)

A. I paid it.

Q. Did you consider that an extravagant bill?

A. I have telegraphed to Havre to the underwriters to know whether I should pay it or not.

Q. I ask your opinion about this: Don't you consider it an extravagant bill to charge seven hundred and forty-three dollars?

A. Not according to American prices. I am surprised at everything here.

Q. Don't you regard it, in your judgment, as an extravagant price?

272 A. May be in my country it is so. No man can gain it there.

Q. Now my question is directed to you. Don't you regard for that simple inspecting of 743 bales of cotton the sum of $743 is an extravagant and extortionate sum?

A. I don't know the man's capacity is to inspect it.

Q. Don't you consider it an extravagant sum?

A. I don't know. I am not a judge of it.

Q. What was the object of this inspection; why was it to be inspected?

A. It was to be inspected in order that we didn't break it and stow more than was necessary, and that it was not torn more than was necessary, and that no more cotton was sent to the pickery than was absolutely necessary.

Q. How many bales were on board of the vessel?

A. Fourteen hundred and forty-two.

Q. And how many were taken out?

A. Six hundred and forty-three were taken out by the vessel and one hundred were broken out, but were not brought out of the ves-

273 sel, as we had a lot of room down in the hold and stowed them there.

Q. How long were they breaking this cotton out?

A. They were breaking it four days nearly.

(Mr. Craig specially objected to Exhibit No. 9, on the ground that it was extravagant, extortionate, and unnecessary.)

Q. Now here is a bill for watching cotton in the Algiers warehouse (referring to Exhibit No. 8), did you pay this bill?

A. Yes, sir; I paid it.

Q. How many days was Mr. Brown watching this cotton?

A. I don't recollect; the bill will state it better.

Q. You paid him three dollars a day for that? (Shown Exhibit No. 8.)

A. Yes, sir; I paid him two dollars and a half for the night, and then he was present sometimes during the day, and therefore he had a half a dollar more.

Q. Did you pay this Exhibit No. 10?

A. Yes, sir; I paid it. It was for two whole tarpaulins.

Q. How long were they covering those things?

A. They are there still, sir, on deck.

274 Q. Did you buy them?

A. Yes, sir.

Q. Did you have any belonging to the ship before?

A. Yes, sir; for the hatches.

Q. Were they destroyed by the collision?

A. No, sir; but that was to cover the cargo when I couldn't go down with the others. I had no use for the tarpaulins before.

Q. But these now belong to you?

A. Certainly.

Q. Then this is a clear profit, is it not?

A. I will sell it at Havre as quick as I can and give you the benefit of it.

Q. Did you have any cotton on deck before?

A. I had seven bales before.

Q. And how many have you got now?

A. I have got twenty-eight.

Q. Have you got any more cargo now on board of the vessel now than you had at the time of the collision?

A. Nothing at all more.

Q. How did these bow-chocks get broke?

A. It got broke when the Equator pulled me off the ground.

275 Q. Then the Sterling didn't break her?

A. No, sir. If it had gone the other way it would not have broken.

Q. Was it broken during the collision?

A. No, sir; it was not.

Q. Then this bill marked Exhibit No. 12 is for repairing the bow chocks?

A. That bill is for the carpenter's work in fixing up the chock and putting on the metal, and so on.

Q. Then it is all for the bow-chock?

A. No, sir; can't you read it?

Q. How much was the price charged for repairing just the broken bow chock alone, aside from the other?

A. Well, a carpenter might make it here in two days; they are very laz' here.

(Mr. Craig objected to Exhibit No. 11, on the ground that it was not itemized and that the charges were extravagant; also to Exhibit No. 13 on the ground that it was not itemized.)

Q. Were not these men employed, as per Exhibit No. 13, hired by yourself; did you not hire them yourself by the day?

A. I had made engagements with Garland.

Q. You did not engage them yourself?

A. No, sir; Garland brings the amount.

276 Q. I want to ask you a general question. Are you well acquainted with American prices?

A. Now, yes, sir.

Q. Did you ever have a ship repaired before in an American port?

A. No considerable repairs.

Q. Would not these charges be considered very extravagant in Sweden, which is your country?

A. Norway, sir.

Q. Would not these charges be considered very extravagant in Norway?

A. They know where it is charged.

Q. But if they were to do these things in Norway, wouldn't they do them much cheaper than they do here?

A. Yes, sir. A man gets twenty-five cents a day there, and a man gets four dollars here.

Q. These look to you as being pretty high figures, don't they; you regard these as pretty high figures?

A. This bill is one of those which I like best. (Referring to Exhibit No. 14.)

Q. Don't these bills look to be pretty high to you?

A. Yes, sir. I am not familiar with such high prices.

Q. And did you pay the whole of this bill?
277 A. Every cent.
Q. Didn't they give you back any of it?
A. No, sir.
Q. In regard to this bill, do you think that all the articles there were used on board of the vessel?
A. Everything, sir.
Q. Did you see them used? Were you there watching the whole thing?
A. I was not in town during the repairs. I had nothing else to attend to.
Q. Tell me what was used in that Exhibit No. 15, in the repairing of the vessel?
A. This first item of fifty fathoms and three-quarter inches hemp rope was for the gallant back-stay.
Q. What did you do with the old rope?
A. The old rope I have kept on board. I have let Mr. Robertson and Mr. Schiedan judge of the value of it, and they have given in their report that it is to be deducted that amount. The duty is so high to get it ashore that it would eat the benefit. It can't be sold for more than a cent and a quarter a pound.
Q. Are you sure that all of these articles were used on board of the vessel?
278 A. Every bit of it.
Q. Did not some of those articles in that bill replace other things on the vessel?
A. Everything was new and I didn't have need of anything.
Q. What became of the old material?
A. They are on board yet.
Q. What will you do with them?
A. I will spin it into spurn-yarn—the remained' of the rigging.
Q. Was the vessel newly painted? Did you paint the vessel?
A. I haven't reached so far yet.
Q. She is still on dock as usual?
A. No, sir; she has gone to sea day before yesterday.
Q. What did you use these paints for?
A. In old and new iron-work.
Q. So you painted some parts of the vessel?
A. I painted inside where I couldn't get afterwards. I couldn't stop painting; the water was bad.
Q. This last bill here, Exhibit No. 16, is included in Exhibit No. 19?
A. Yes, sir.
Q. What are chock plates (referring to Exhibit No. 20)?
279 A. That is a cast thing on top of the bow rail. When the old one was broken I had to get a new one.
Q. What did you do with the old iron?
A. It is laying in the shop of Mr. Boyne.
Q. What does it cost in your country to splice a man's arm (referring to Exhibit No. 22)?
A. It depends upon the man you go to.
Q. Well, something like your man here?
A. Well, the man doesn't make any difference, but the doctor does. The best doctor would charge me twenty-five dollars for it.
Q. What would you have done if you had been at sea and he had broken his arm that way?
A. I would have tried to splice it myself.

Q. Are you good on surgical operations?

A. Not quite, without knowledge. I have done it before.

Q. Does this include all the damage to that man against this vessel, the Sterling? Is this all the damage that you have for this broken arm? You paid him for his time, did you not?

A. Yes, sir.

280 Q. That you have charged in also, have you not?

A. Yes, sir; but I have had no work out of him since that time.

Q. Now, captain, what is your travelling bill? (Referring to Exhibit No. 23.)

A. I am sure I have spent more than that. I have been travelling from Algiers warehouse and I have had all my witnesses up here, and sometimes I would come by the upper and sometimes the ferry.

Q. This included your charges for your witnesses?

A. For my crew and myself.

Q. While they were taking testimony?

A. Yes, sir.

Q. Did this include the beer that they got afterwards?

A. Yes, sir; that was travelling expenses. I had to give them that.

Q. This includes the travelling expenses in going backwards and forwards, and the beer that they got?

Mr. CRAIG. I always treat witnesses or always am expected to do that.

WITNESS. Yes, sir; that is what they have beforehand.

281 Q. Has this bill or has it not been paid? (Referring to Exhibit No. 25.)

A. It has not yet been paid.

Q. Captain, have you or have you not received any portion of this money back again which you have paid out?

A. Not at all.

Q. Do you object to receive any portion of it back?

WITNESS. Do you mean from the persons there?

Mr. CRAIG. Yes, sir.

A. No, sir; I do not.

Q. Who are the agents of the ship here at this place?

A. It is at present Mr. Bergé. I tried to get along with one, but I could not, and I had to address myself to Mr. Bergé.

Q. Who was your agent at the time when you first came up here, your first agent?

A. Messrs. Decan & Zerega.

Q. They are not your agents now?

A. No, sir.

Q. Why did they cease to be your agents?

A. Well, I didn't like them.

Q. You discharged them?

A. Yes, sir.

Q. How many insurance bills did you pay?

A. Four of them, sir.

282 Q. What was the object of that insurance—to cover what?

A. To have the cargo insured while out of the ship.

Q. Was it insured prior to that? Was it insured in any other way? Is it not insured in Norway or anywhere else?

A. I don't know. That is not my business. I didn't know until I came back where it was insured before.

Q. It was insured, was it?

A. Yes, sir.

Q. Where?

A. It has been insured in Havre and Paris companies, the exact names of which I don't know, and some in a Swiss company represented by Mr. Richardson here.

Q. When did the Sif sail from this port the last time?

A. Tuesday morning last.

Q. Give the date.

A. The fifth of May.

Q. Captain, what could have been done by the Philip and the Lone Star to have prevented the collision? Could anything have
283 been done by the Philip or Lone Star to prevent the collision? If you don't know, say you don't know; and if you do know, say you do know.

A. I think that they could not have done anything more than what they did.

Q. In your judgment, was it proper to cut the hawser of the Sif at that time, or not?

A. Perfectly proper, because the vessel was stopped.

Q. Do you know whether the hawser of the Sterling was cut before the collision or not, from your own knowledge?

A. The end that passed over our taff-rail had no whipping.

Q. Do you know whether it was cut or not?

A. I don't know; I didn't see it.

Q. Do you know how deep the water was at the bow of the Sterling at the time of the collision? State what you know.

A. As she dropped clear of us, it must have been more than her draught.

Q. How many feet would that be?

A. I don't know—more than her draught.

Q. Seven feet?

A. I think she draws more.

284 Q. Did not a steamboat get hold of the Sterling and haul her off? Did not the Lone Star get hold of her and haul her off?

A. Yes, sir; a good while afterwards.

Q. Now, then, I want to know whether at the time of the collision you knew the exact depth of the water under the bow of the Sterling.

A. Well, I can't know that.

Q. You don't know whether under the bow of the Sterling it was five, six, seven, or eight feet, or more or less?

A. Yes, sir; certainly I know it was more.

Q. More than five, six, seven, or eight feet?

A. Yes, sir; if I judged the Sterling to draw eleven feet, it must have been between eleven and fourteen.

Q. Do you know how much the Sterling drew?

A. No; I do not know it.

Q. Did you measure the depth of the water under the bow of the Sterling?

A. No; I did not, sir.

Q. Do you know anything about a mud lump being near there at the point of collision?

A. No, sir.

285 Q. You don't know whether there was any or not?

A. No, I don't know; you know the water is very—I don't know what you call it.

Q. Did you hear the pilot, Douglass, on the Sif, cry out to the captain of the Sterling to put his wheel hard aport?

A. That is not clear to my recollection.

By Mr. HORNOR:

Q. When do you expect to go away, captain?
A. To-morrow, at four o'clock.
To be filed by consent.

E. D. C., *for Cl'm'ts.*

Exhibits Nos. 1 *to* 25, *attached and referred to in foregoing testimony.*

EXHIBIT No. 1.

(Duplicate.)

Norwegian bark Sif & cargo to Edward Ivy, Dr.

NEW ORLEANS, *April*, 1874.

For official extension of protest in collision case, and furnishing three certified copies of same; and for professional advice and assistance to master in matters pertaining to vessels return' to this port in distress, $50.00.

Rec'd payment from Capt. Carl Lorange.
286 May 1, 1874.

EDWARD IVY,
Per CLARK.

EXHIBIT No. 2.

(Duplicate.)

NEW ORLEANS, *March* 23d, 1874.

Due Western Union Telegraph Co. by Capt. Lorange twenty-five $\frac{70}{100}$ dollars in gold for cable to Rich'd Petersen, Moss, Norway.
$25.70 gold. Paid.

P. MOLONY, *Rec'r.*

EXHIBIT No. 3.

Tow-boat Association.

NEW ORLEANS, *M'ch* 17, 1874.

B'k Sif, captain & owners to steamer H. Wright, Dr.

For towage from to city in distress, as per contract, $639.80.
Rec'd payment.

EUG. HARRIS, *Sec'y.*

EXHIBIT No. 4.

(Duplicate.)

NEW ORLEANS, *April* 28, 1874.

Bark Sif, captain & owners to tow-boat Aspinwall, Dr.

For towage to and from Algiers warehouse, $35.00.
287 Received payment.

J. O. SAYLER, *Agent.*

EXHIBIT No. 5.

(Duplicate.)

Norwag'an bark Sif & owners to Carl P. Seymer.

To paid Brooklyn warehouse for wharfage while fitting up masts, 10 days @ $2.50..... $25 00
Rec'd payment.

CARL P. SEYMER.

28 AP'L, 1874.

EXHIBIT No. 6.

(Duplicate.)

NEW ORLEANS, *April* 28, 1874.

Norw. bark Sif & owners to Capt. R. L. Robertson & G. Schneidam, Dr.

For surveying and reporting damages to said bark, $100.
Received paym't.

R. L. ROBERTSON,
G. SCHNEIDAN,
P. p. P. M. SCHNEIDAN.

EXHIBIT No. 7.

NEW ORLEANS, *April* 24, 1874.

Norw'g'n bark Sif and owners to Thompson & Seymer, stevedores.

To labor, horse hire, & tools, breaking out and discharging 743 b. cotton, 1,000 staves	$307	50
labor on ballast	16	00
288 To transporting, storing, & store rent for 685 b. c., 1.20; 1,000 staves, 5.00	785	00
" Atlantic press, repressing, repairing, & hauling 60 bales cotton as per a/c	114	50
Star pickery, repicking & repressing & hauling 7 bales cotton as per a/c	52	50
restowing 743 bales cotton, @ 75c	557	25
1 M staves	7	00
use of wharf & planks, disch. & load'g	20	00
	1,859	75

Rec'd payment.

THOMPSON & SEYMER.

NEW ORLEANS, 24 *April*, 1874.

(Duplicate.)

EXHIBIT No. 8.

(Duplicate.)

NEW ORLEANS, *April* 28th, 1874.

Received payment from Capt. Lorange, of the Norwegian bark Sif, for watching cotton in Algiers warehouse.
32 nights, @ 3..... $96
$96.] T. W. BROWN.

EXHIBIT No. 9.

A. Bidault, senior, agent of the French underwriters, to A. Bidault, junior, cotton broker.

For inspecting and attending to the breaking out and stowing
289 back of 743 b. cotton from the bark Sif, Capt. Lorange, in order to replace the main and fore masts.
743 bales of cotton, @ $1 per bale, $743.00.
R'c'd p't.

A. BIDAUTT, JUNIOR.

NEW ORLEANS, *April* 25, 1874.

Capt. Lorange, of the Norwegian bark Sif, is authorized by the undersigned to pay the above bill on account of the underwriters of Havre, of which he will be reimbursed by them on presentation.

EXHIBIT No. 10.

NEW ORLEANS, 28*th April*, 1874.

Bark Sif and owners to Samuel Brook, Dr.

[Office No. 84 Peter street, late New Levee, & No. 16 Commerce street, between Poydras & Lafayette streets.]

Marks D.—Tarpaulins covering cargo on deck, $30.00.
Rec'd payment.

S. BROOK,
P'r C. R. L.

EXHIBIT No. 11.

NEW ORLEANS, *April* 25, 1874.

Bark Sif & owners to William Hannon, Dr.

290 [Ship-carpenter, caulker, & spar-maker, No. 8 Marigny building, 3d district.]

For making a new foremast and fitting the same, and also fore-topmast, for making and fitting; and also foretopgallant-mast, for making and fitting. For mainmast and fitting the same, and also maintop-mast for making and fitting, and also mainto'gallant-mast for making and fitting, and mizzentop-mast complete; and also main-yard for making and fitting the same, and for making lower mast, t*russel*-trees, and new top for the same; and for repairing bulwarks and taff*ell*-rail, and fashion-piece, and brat-gallows, and pin-rail; gallant-yard, for making and fitting, as per contract, $1,100.00.
Rec'd payment.

WILLIAM HANNON.

(Duplicate.)

EXHIBIT No. 12.

NEW ORLEANS, *April* 27, 1874.

Bark Sif to William Hannon, Dr.

[Ship-carpenter, caulker, & spar-maker, No. 8 Marigny building, 3d district.]

291	Repairing broken bow-chocks, making new mast-wedges, fore and main smo'thing, and caulking port bow, repairing metal, 9½ days' work, at $4 a day	$38 00
	4 sheets of metal, and nails for same	11 00
		$49 00

Rec'd payment.

WILLIAM HANNON.

EXHIBIT No. 13.

Barque Sif & owners to E. H. Garland.

To taking out old and putting in new fore and main mast fittings, new fore-rigging, fore and main topmast-stays, and foretop-mast back-stays, sending up spars, setting up rigging, &c., 44¾ days, at $4.50 per day	$201 37½
Foreman, 13¼ days, @ 5 per day	66 25
Use of blocks, falls, lashings, &c	25 00
Total	$292 62½

New Orleans, April 29, 1874.

Rec'd payment.

E. H. GARLAND.

EXHIBIT No. 14.

Bark Sif & owners, March 24, 1874, *to W. T. Gerard, Dr.*

292	To repairing and fitting fore and main caps	$25 00
	To rep'g & fitting 2 top mast-caps	10 00
	" 2 heel-bands	4 00
	" 98 lbs. sling-band for mastheads, 18	17 64
	" 2 " 1¼ shackles, 200	4 00
	1 drayage	1 00
	" altering 2 truss-bands & bolts	22 00
	" 25 lbs. of topmast-bands & fitting, 18	4 50
	" rep'g & fitting truss-arms	5 00
	" lengthening 12¾ eye-bolts for cross-trees, 50	6 00
	" 12¾ rings for do. 3	36
	" altering 2 spider-bands for topmast	4 00
	" 2 cast shieves, 32 lbs, 10	3 20
	" 4 dogs for topmast, 75	3 00
	" 44 countersunk nails, 4	1 76
	" 33 lbs. of plates for cross-trees, 18	5 94
	" rep'g chain plates & bolts	2 00
	" 2 large cast-steel shieve-pins, 2.00	4 00
	" making 2 iron fids, 1.50	3 00

"	79 lbs. of plates and nails for fids & trussel-trees, 18	14 22
"	16½ in. countersunk nails, 5	80
"	making & rep'g joint-strap for trussel-trees	8 00
"	altering & fitting pin-band for mast	5 00
"	fitting bands & screw-bolts	3 50
"	40 lbs. of double straps for topmast fid, 18	7 20
"	rep'g 1 buntkin & braces	2 00
"	altering & fitting iron tubs, bands, & bolts for topmast	26 00
"	4 plates & nails, topgallant trussel-trees	2 50
	" making & rep'g iron cleats	3 00
293	To altering and rep'g truss-arms	3 00
	" 3 screw-bolts for bands, 75	2 25
"	8 ⅜ screw-bolts, 25	2 00
"	rep'g 4 straps	75
"	lengthening eyebolts & nuts	1 75
"	4 eyes for topgallant rigging, 50	2 00
"	2 straps for gallant cross-trees, 75	1 50
"	altering band for mainmast	5 00
"	rep'g 4 lanyard link for gallant rigging	2 00
"	10 lbs. of ⅝ spike-bolts, 12½	1 25
"	rep'g & fitting 4 par'ell bands & truss-arms	32 00
"	7 lbs. of she've-pins, 14	98
"	1 rolling-thimble	1 00
"	lengthening 12 fottoc shrouds, 75c	9 00
"	45 lbs of 1-in. iron for fottoc-shrouds, 10c	4 50
"	rep'g gin-block	2 50
"	rep'g 1 joint-band for mast	5 00
"	2 rolling-thimbles, 1.00	2 00
"	rep'g staunfions for boat-rack	6 00
"	3 screw-shackles, 1.00	3 00
"	3 thimbles, 25	75
"	rep'g 4 braces for yards, 1.00	4 00
"	2 ⅞ screw-bolts for topsail-yard, 75	1 50
"	rep'g 3 saddles, bands, & bolts, 1.25	3 75
"	6 rings, 4	24
"	rep'g jack-stays, 13 starts	2 00
"	altering 2 bands	50
"	25 open keys	2 50
"	1 double lanyard link, rep'g	2 00
"	1 drayage	75
	" altering and lengthening braces for yards	5 00
294	To drilling cast chocks	$2 50
	" 28 lbs. of bolts for cast chocks, 15	4 20
"	rep'g sling-chain	2 00
"	4 cleats for cross-trees, 1.00	4 00
"	rep'g band for jib-boom	5 00
"	2 eyebolts & lanyard links, 1.00	2 00
"	1 long screw eye bolt & thimble	1 00
"	rep'g iron-work for cathead	1 00
"	4 eyebolts & rep'g braces topgallant-mast	6 00
"	rep'g 1 belaying band, brackets, & pins	5 00
		$341 79

New Orleans, April 27, '74.
Received payment.

W. F. GERARD.

EXHIBIT No. 15.

NEW ORLEANS, *April* 28, 1874.

Barque Sif & owners, bought of Woodward & Wight, ship-chandlers & provision dealers:

M'ch 25.	50 f't's 3¾-in. hemp rope, 169 lbs., 15c		25 35
	85 " 5¼ " " " 111½ " 15c		16 75
	4 coils spun-yarn, 69 " 15c		10 35
	1 " 3-in. manilla rope, 236 " 17c		40 12
	3 " seizing, 73½ " 22c		16 17
	1 bolt parcelling, 85 y'ds 20c		17 00
	1 ball *inculien*, 6¾ lbs., 22c		1 48
	½ bbl. tar, 3.25		3 25
	Drayage to Algiers		2 00
	200 f't 7-in. hemp rope, 424 lbs., bo't outside, 17c		72 08
	182 lbs. 7¼-in " " , 15c		27 30
295	M'ch 30. 400 f't 3-in. win. rope, 488 lbs., 19c		$92 72
	180 " 2 " " " 102 " 19c		19 38
	1 bolt 1 hemp duck, 42 y'ds, 50c		21 00
	Drayage to Algiers		2 00
	31. 75 f't's 8-in. manilla hauser, 810 lbs., 17c		137 70
	Drayage to Algiers		2 00
Ap'l	6. 1 bolt parcelling, 89 y'ds, 20c		17 80
	2 coils spun-yarn, 48 lbs., 15c		7 20
	Drayage to Algiers		2 00
			$533 65

Rec'd payment.

WOODWARD & WIGHT.

EXHIBIT No. 16.

Bark Sif & owners to M. McMahon, Dr.

To 2 cast-iron sheaves	$3 75
" 1 9-in. bush sheave, 1½ in. thick	1 50
" 2 4½-in. " " & 2 turned pins	1 75
" 6-in. & 15-in. pat. sheaves, 11 in., @ 25c	2 75
" 1 5½ bush sheave for snatch-block	75
	$10 50

Rec'd payment.

M. McMAHON.

EXHIBIT No. 17.

NEW ORLEANS, *April* 29, 1874.

Bark Sif & owners bought of Kelly & Luhman, ship-chandlers & grocers:

	175 lb. chain for topsail sheet	17 50
296	32 lb. chain for topgal't-sail sheet	3 20
	Drayage	1 50
		22 20

Rec'd payment.

KELLEY & LUHMAN,
P'r J. O. SAYLES.

EXHIBIT No. 18.

NEW ORLEANS, *April* 28, 1874.

Bark Sif and owners bought of Kelly & Luhman, ship-chandlers & grocers:

16 y'ds ⅌ 1 hemp canvass for mast coats, $\frac{212}{16}$	8 80
16 gall's pine tar, 30, 4.80; 2 coils 3 in. spun-yarn, 5.72	13 92
1 coil 2 y'n spun yarn, 16, 5.44; 1 side rigging-leather, 5.50	10 94
1 " 2-in na. rope, 121, 17½, 21.18; 1 coil 2½-in. ma. rope, 229, 17½, 40.07	61 25
Paid skiff hire, 1.30; 60 lb'. ratline, 16, 9.60	10 90
1 coil marline, 34, 21, 7.14; 2 papers copper tacks, 85, 1.70	8 84
50 lbs. red-lead, 14, 7.00; 100 lb'. white-lead, 13, 13.00	20 00
25 lbs. yellow-ochre in oil, 18, 4.50	4 50
2 cans b't umber, 3 lb'.ea.=6, 25, 1.50	1 50
	$140 65

Rec'd payment.

KELLEY & LUHMAN,
P'r J. O. SAYLES.

EXHIBIT No. 19.

NEW ORLEANS, *April* 28, 1874.

297 Bark Sif & owners bought of Kelley & Luhman, ship-chandlers & grocers:

Repairing sheaves	$5 75
2 single 8-in. pat. blocks, 16 in., @ 25	4 00
2 " 7 " " " 14 " " 25	3 50
2 " 6 " " " 12 " " 25	3 00
2 sheaves 8-in.=24 in	4 80
Paid McMahon's bill	10 50
	$31 55

Rec'd payment.

KELLEY & LUHMAN,
P'r J. O. SAYLES.

(Duplicate.)

EXHIBIT No. 20.

NEW ORLEANS, *April* 16, 1874.

Mr. M. G. Boyne bought of Leeds & Co., iron-founders:

Clock plates, 388″, 7	27 16
Alteration of pattern	7 00
Cartage	75
	$34 91

Rec'd payment.

LEEDS & CO.,
P'r TAYLOR.

EXHIBIT No. 21.

(Duplicate.)

Bureau veritas, Lloyd Universel, registre de renseignements sur naivres.

Reçu de M. Capt. Lorange la somme de forty dollars, pour cont
298 dévizé du naivre b'k Sif de 589 tonneaux, Capitaine Lorange, conformément à l'article 31 du règlement.
New Orleans, le April 28, 1874.
Certificat, $25.00; visa, $15.00—$40.00.
Pour l'administration:

R. L. ROBERTSON,
L'Expert.

EXHIBIT No. 22.

(Duplicate.)

NEW ORLEANS, *Ap'l* 28, 1874.

Norw. Bark Sif, Capt. Lorange to Dr. O. R. Lang, Dr.

To professional services, attending the second mate, who had his left forearm broken by the dismasting of the vessel, $40.00.
March 15, 1874.
Rec'd payment.

EXHIBIT No. 23.

(Duplicate.)

Norwegian Bark Sif, & owners to Capt. Lorange, debit.

Travelling expenses for myself and crew during 42 days' stay in New Orleans, $42.00.
New Orleans, April 29, 1874.
Rec'd payment.

CARL LORANGE.

299 EXHIBIT No. 24.

Norwegian Bark Sif & owners to Capt. Carl Lorange, debit.

Provisions for self & crew while in distress from 15 March till 1st of May, 45 days' allowance:

Provisions for master @ $1 p'r day	45 00
2 mates @ 75c. " "	67 50
11 men @ 50c. " "	247 50
	$360 00

New Orleans, April 29.
Received payment.

CARL LORANGE.

EXHIBIT No. 25.

Norwegian Bark Sif & owners to Capt. Lorange, debit.

To wases for captain & crew (as per contract) while in distress from March 15 to May 1st, is one month and a half:

Captain,	100 per m'th		$150	
1st mate,	18		27	
2 " Lyche,	14		21	
Steward, J. Jensen,	15		22	60
Sailmaker, Airnsen,	13		19	60
Carpenter, Persen,	16		24	60
Boatswain, Cricksen,	12		18	
Ab. s'amen, Carlsen,	11		16	60
do Fredricksen,	9		13	60
do Gendersen,	9		13	60
300 O. S., Ammusen,	8		12	
do Carl Sousen,	6		9	
do P. Heggeland,	6		9	
do J. Johnsen,	6		9	
Norwegian Girds			364	60

364 h'd, 60 huilling, @ 112 huilling per dollar gold=gold, 390.53; at exchange 113, currency, $441.30.

Rec'd payment.

CARL LORANGE.

Hearing & order.—Extract from minutes of April 4th, 1876.

R. M. PETERSON & AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496.

This cause was called for trial.

Hornor & Benedict for libellants; E. D. Craig for claimants.

When, after hearing counsel, it is ordered that the testimony (which is very voluminous) be printed, each party paying his share in the expense, the losing party ultimately paying for the whole as costs of suit, and that hereafter the proctors be at liberty to argue the matter.

301 *Bill of exception.—Filed April 4, 1876.*

R. M. PETERSEN
vs.
SHIP STERLING & EQUATOR. } No. 10496.

Be it remembered, on submitting the testimony in the above case, libellant offered to file in evidence the extended protest on part of libellant; that proctor for def'ts objected to the same, as being an ex-parte document and that defendants had no notice or opportunity to cross-question witness on said testimony, but notwithstanding this objection the court overruled the same, holding that the testimony was competent for certain purposes; and because these matters do not appear of record, the defendant presents this his bill of exceptions and prays to have the same allowed.

(Signed) EDWARD C. BILLINGS, *Judge.*

Document referred to in foregoing bill of exceptions and offered by libellants, April 4, 1876.

UNITED STATES OF AMERICA,
302 *State of Louisiana, City of New Orleans:*

By this public instrument of protest be it known that before me, Edward Ivy, a notary public, duly commissioned and qualified in and for the parish of Orleans, State of Louisiana, and dwelling in the city of New Orleans, personally came and appeared Carl Lorange, master of the Norwegian bark called the Sif, who having heretofore, to wit, on the 19th day of March, 1874, noted before me notary for the uses therein set forth his protest in due form of law, now requires me, notary, to extend said protest.

And with the said Carl Lorange also came and appeared August Sorenson, 1st mate; A. H. Erickson, boatswain, and Erek Persen, carpenter, all belonging to the said bark Sif, all of whom being by me first sworn do voluntarily, freely, and solemnly declare and depose as follows, that is to say: that he, the said Carl Lorange, departed in and
with the said bark Sif, as master thereof, from New Orleans,
303 having on board a cargo of cotton and staves, and bound for the port of Havre, France; that the said bark was then stout, staunch and strong, had her cargo well and sufficiently stowed and secured, was well masted, rigged, manned, tackled, victualled, apparelled, and appointed, and was in every respect fitted for the voyage she was about to undertake.

That on Tuesday, the 10th March, 1874, at about 5 o'clock p. m., the Sif was taken in tow by the steam tow-boat Sentinel and proceeded down the Mississippi River and on the 11th at about 9 o'clock a. m. came to anchor at Pilot Town at the SW. Pass, as the bar was blocked up by a German steamer. On Sunday the 15th, about 7 o'clock a. m., pilot came on board, and the bar having been cleared during the night, the tow-boat Lone Star took the Sif in tow with a line from the bow and proceeded towards the bar. When about one mile from the bar, they
discovered that it was again blocked by another steamer and
304 they had to bring up. At about 10.30 a. m. the bar was cleared and immediately the towing in and out of vessels was commenced.

At noon the tow-boat Philip came to the Sif and took her hawser from the port bow, and when her anchor was hove home she swung her to eastward and commenced towing out, but the swinging was not as quick as was expected in consequence of the tow line fouling with the anchor, and the Sif took the ground on the eastward side of the channel. She, however, did not stop moving, and paid off to the westward, when her jibs were hoisted and would undoubtedly gone safely out over the bar if they had not been compelled to anchor to avoid collision with a three-masted schooner coming in, and the Sif then cut over to the westward side of the channel, a short distance inside the buoys.

When the anchor was hove home the Philip took the hawser from the port stem hause-pipe and commenced pulling the Sif slowly astern, while the current at the same time took her out. After about twenty
minutes' towing, the st'r Lone Star gave a line to the Philip
305 and by their joint efforts the Sif's stern was swung more up against the current, and she accordingly cut over to the eastward side of the channel, where she took the ground close by the buoy. Her hawser was then cut by order of the pilot. While the tow-boats thus had the Sif in tow the ship Sterling, of Bath, Maine, towing astern of and in charge of the tow-boat Equator, approached the bar,

coming in; and although the Sif almost completely blocked the channel over the bar, they came ahead at great speed. The Equator went astern of and cleared the Sif, but the Sterling headed right for her port bow and came in collision, her jib-boom and bowsprit going in between the Sif's foremast shrouds and foretop-mast back-stays, and causing her to heel terribly over to starboard and her masts and rigging to come down. As soon as the flying-jib of the Sterling was gotten clear of the Sif's broken foremast, the Sterling dropped astern, and the Sif was taken in tow by the Equator and pulled off the ground, in doing which the Sif's hawser was damaged and the iron cleat and
306 wood-work broken. She was then taken back to Pilot Town and came to anchor about 4 p. m.; and for safety of the ship and cargo they had to clear the deck quickly, to do which they had to cut away much of the running rigging and several lanyards. Upon examination they found the Sif's main and fore mast broken, main and fore topmast broken in the sheave-holes, besides many other damages and injuries, all being of such serious nature that the master was obliged to return to this port for necessary repairs. On the 17th was taken in tow, and on the 18th, at 9 p. m., arrived at New Orleans. Marine surveyors of the port, together with two Norwegian ship-masters, held surveys and recommended that part of the be discharged, so as to step the two new masts and make other repairs actually necessary. All cargo damaged by the forced discharge has been repaired. The master has employed legal counsel and institufed suit against the Towboat Association and ship Sterling in the admiralty court for all losses, damages, and costs; and he will put another captain in charge
307 of his ship and remain here to attend to the prosecution of the suit. In all matters pertaining to proceedings subsequent to the disaster, he has advised and consulted with the Norwegian consul, the agent at this port of the French underwriters, and Edward Ivy, the average adjuster.

By the discharging cargo to step the masts, the cotton was more or less torn by extra handling. About sixty bales were sent to the pressed to be repressed. Nine bales, entirely broken loose, had to be sent to the pickery, where seven bales were made out of the nine bales.

All repairs having been made and cargo reloaded, the vessel will be ready to resume her voyage on the 1st May, 1874.

And the said master further says that all the damages and injury which already has or may hereafter appear to have happened or accrued to the said bark or her said cargo has been occasioned solely by the circumstances before stated, and cannot nor ought not to be
308 attributed to any insufficiency of the said bark or default of him, the deponent, nor of his officers and crew. Whereupon he requires me, notary aforesaid, to make his protest and this public act thereof, that the same may serve and be of full force and value, as of right shall appertain.

And thereupon the said master doth protest, and I, the notary, at his instance and request, do by these presents publicly and solemnly protest against winds, weather, and against every accident, matter, or thing had and met with as aforesaid, whereby or through means of which the said bark or her cargo already has or hereafter shall appear to have suffered or sustained damage or injury, for all losses, costs, charges, expenses, damages, and injury which the said bark, the owner or owners of the said bark, or the owners, freighters, or shippers of her said cargo, or any other person or persons interested or concerned in either, already have or may hereafter pay, sustain, incur, or be put into

by or on account of the premises, or for which the insurer or in-
309 surers of the said bark or her cargo is or are respectively liable to pay or make good by contributions or average, according to custom or their respective contracts or obligations, and that no part of such losses and expenses already incurred or hereafter to be incurred do fall on him, the said master, his officers, and crew.

Thus done at my office, in the city of New Orleans aforesaid, this first day of May, in the year of our Lord one thousand eight hundred and seventy-four, in the presence of Thad. J. Clark and W. J. Seymour, competent witnesses, who hereunto sign their names with said appearers and me, notary.

(Original signed) CARL LORANGE, *Master.*
AUGUST SORENSEN, *1st Mate.*
ANDREW H. ERIKSEN, *Boatswain.*
his
EREK + PERSEN, *Carpenter,*
mark.

THAD. J. CLARK.
W. J. SEYMOUR.

EDWARD IVY, *N. P.*

I hereby certify the foregoing to be true copy of the original act of protest extra in my current register.

310 In faith of which I hereby grant these presents under my signature and seal of office, at New Orleans, this second day of May, eighteen hundred and seventy-four.

(Signed) EDWARD IVY,
Notary Public.

Testimony for libellants.—Filed April 4, 1876.

United States district court.

R. M. PETERSEN ET AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No.

Testimony taken April 21, 1874, at the office of Mess. Hornor & Benedict.

Present, J. P. Hornor, for pl'ff; defendants' counsel absent.

A. A. DOUGLASS, sworn for plaintiff, says:

Q. What is your age?
A. Thirty-nine years.
Q. Where do you reside?
A. At Southwest Pass.
Q. What is your business?
A. Pilot—branch pilot.
Q. How long have you a branch pilot?
311 A. Since December, 1859.
Q. I wish you would give a history of the bark Sif on the 15th of March, 1874?
A. The date I couldn't tell.
Q. The day of the collision, where did you start from, and what took place?
A. In reference to the collision?

Q. Yes.

A. She was anchored inside of the bar just previous to the collision. I suppose it was about two hours from the time we got under way when we got ashore on the bar; and just at the time we started, and had two boats pulling us on the west side of the bar, the ship Sterling took the bar.

Q. In the morning of that day was not the bark Sif lying at anchor at Pilot Town?

A. In the morning; yes, sir.

Q. What time did she leave Pilot Town?

A. I could not tell you what time it was.

Q. As near as you can remember?

A. I think about eight o'clock in the morning; between seven and nine.

Q. Did you weigh anchor then?

A. Yes, sir.

312 Q. Which way did you proceed?

A. With a tow-boat ahead of me towing me astern.

Q. What tow-boat was it?

A. The Lone Star.

Q. Where did you go with her?

A. We got nearly to the bar, and, seeing there was a steamer at the bar, the tow-boat rounded me to, and we laid at anchor three hours.

Q. How far was that from the bar, where you laid at anchor?

A. That was just on the inner side of the bar.

Q. Then, after you had laid there three hours, you raised anchor and proceeded?

A. Yes; with another tow-boat, the Philip, and then we turned around, and, in order to avoid collision with a three-masted schooner, I let go my anchor.

Q. How long did you remain at anchor there?

A. We hove anchor right then.

Q. But how long did you remain there?

A. I suppose about an hour.

Q. Then what happened?

A. I got the Philip to take a hawser from our port quarter.

313 We were lying then stern upstream. We got the Philip to take this hawser to pull us up stream. Then half an hour later the Lone Star came up and took a hawser from the Philip, and then it was they undertook to pull the Sterling in over the bar.

Q. How long was it you saw the Sterling before the collision took place?

A. We saw her probably a half an hour; could see her.

Q. Was she at anchor when you first saw her?

A. Yes.

Q. How long was it from the time she raised anchor outside of the bar to the time of the collision?

A. I couldn't tell exactly; I think about twenty minutes or half an hour.

Q. All that time the Sif was on the bar?

A. Yes—aground.

Q. When the ship Sterling came along did she come by herself or was she towed?

A. The tow-boat was towing her.

Q. What was the name of the tow-boat towing her?

A. The Equator.

314 Q. She was towing her how?
A. Astern by hawser.
Q. How much hawser did she have out?
A. Forty-five or fifty fathoms.
Q. How much hawser did you have out from the Sif?
A. I should say about same—forty or fifty fathom.
Q. What was the position of the Sif at the time of the collision; how was her head pointing?
A. I think we were heading, as near as I can get at it, west or west by south—that is, very near head out, or three or four points from it, and stern upstream.
Q. How was that in regard to the current?
A. The current was striking her a little on the broadside.
Q. How long had you been in that position before the collision took place?
A. The ship struck us I should think it could not have been more than five minutes after we grounded hard. Yes, I should think about that time.
315 Q. How wide was the channel on that day at the Southwest Pass over the bar?
A. What we call the channel—the deep water—I don't suppose that was over seventy feet wide?
Q. How long was the Sif?
A. I could not tell you that.
Q. Was she more than seventy feet?
A. Yes, I should judge more than that.
Q. At the time of this collision was there any room for the Sterling to pass without touching the Sif?
A. There was if we had not moved at all. Five minutes previous to the collision we had already moved into the channel.
Q. How long had you been moved into the channel when the collision took place?
A. I should say eight or ten minutes.
Q. During that time were you aground or afloat?
A. We could not have been afloat more than a minute or two.
Q. Were you aground or afloat when the Sif was struck?
A. The Sif had just grounded when the ship struck us; she was unmanageable.
316 Q. Had she been aground eight or ten minutes before that?
A. Yes, but on the other side of the channel.
Q. How long before the collision was it that she shifted from the west side to the east side?
A. Within ten minutes' time.
Q. Was it five minutes before the collision?
A. I should think it was over five minutes that we were in the channel. We were afloat two or three minutes.
Q. It was five minutes before the collision took place that you shifted from the west side to the east side?
A. Yes, as near as I can say.
Q. Was the Sterling afloat or aground when the collision took place?
A. She was afloat, I should say.
Q. Was she coming on by her own force or pulled by the tow-boat Equator?
A. When she struck us she was coming by herself; the hawser was gone two or three times when she struck us.
Q. What became of the Equator then?

317 A. She went up inside of us in a little while, and turned around and towed me in.

Q. When the Sterling came up and struck you what became of the Equator?

A. She passed inside of me to the eastward.

Q. How many feet of water was the Sif drawing?

A. I couldn't say. I think somewhere near fifteen feet.

Q. And the Sterling was drawing how many feet of water?

A. Twelve or fifteen feet.

Q. Less than the Sif?

A. Yes.

Q. Although she was the larger vessel of the two?

A. Yes.

Q. What was the reason she drew less than the Sif?

A. She was light.

Q. After the collision took place, did the two vessels remain together?

A. As soon as the rigging got clear the Sterling dropped astern, showing that she was afloat.

Q. Was she taken off then?

318 A. She went right in. I think it was the Lone Star that took her in.

Q. Did she take her right past you?

A. Yes, to the westward of us. The tow-boat took the ship in to the westward of the Sif.

Q. While you were lying there trying to work your way down over the ground, was if safe for the Sterling to come up and pass you?

A. That is a chance we are always taking.

Q. Was it not dangerous?

A. There are risks always.

Q. And in this case there was a risk?

A. Yes; because they could see that the two vessels were pulling the Sif.

Q. Would you have attempted to pass if you had been on the Sterling?

A. I might have attempted it; yes, but there was a risk to run.

Q. How long before the collision took place was it that it became inevitable?

A. I should think five minutes.

Q. During that five minutes could the Sterling or the tow-boat Equator have done anything to avoid a collision?

319 A. I think if the ship had put her helm hard aport and let go her port anchor she could have avoided it. Though it was a risk to run even then with a ship having three or four knots an hour headway; but it is something that ought always to be done to avoid collision.

Q. Could the Equator have done anything to avoid the collision?

A. I don't see anything, except perhaps to have let go the hawser a little sooner than she did. I asked them two or three times to let go the hawser, and I also asked them to port the helm hard on the ship.

Q. Was the helm aport on the ship?

A. I don't think they ported the helm, because the ship did not act so.

Q. How long had the Sterling been anchored outside of the bar before attempting to come in?

A. She had been anchored there the day before, I know, because I saw the captain up at the station then.

Q. What part of the Sterling struck, what part of the Sif?

A. As near as I can recollect, I think it was the bowsprit took the Sif's fore-rigging, and then the flying jib-boom took the maintop and stays.

320 Q. Did the hull of the two vessels touch at all?

A. I think the stem of the Sterling struck the Sif's port bow.

Q. Did it move the Sif?

A. It careened her over considerably.

Q. Did that prove that she was aground or afloat?

A. Aground afloat it would have had the same effect.

Q. Was she aground or afloat immediately afterwards?

A. She was aground.

Q. Immediately after the collision was the Sterling aground or afloat?

A. I think she was afloat all the time. She dropped astern by herself as soon as they got the rigging clear.

Q. Did you see at any time the hawser of the Sterling on the deck of the Sif?

A. I saw it hauled up a quarter all across her deck after the collision.

Q. Was it necessarily attached to the tow-boat?

A. No, sir.

Q. How could it have got there if it was not attached to the Sterling?

321 A. Well, I would not say that it was.

Q. Could you imagine any way how it could have got there without it?

A. The Equator had gone past us, and possibly it might have got there then.

Q. Could anything have been done at any time on board the Sif to have avoided the collision?

A. No, sir; there was no way possible to avoid it. The only way was to still keep going up stream.

Q. There was no way by which you could have stayed on the west side of the channel?

A. Yes; and the other ship could have stayed outside of the channel.

Q. You were doing your best to get the Sif out?

A. Yes.

Q. And that was the reason you took her from the west side to the east side?

A. Naturally, the current took her over there. We had to keep on towing her to the east side. That was the only chance we had to avoid collision, to tow up stream. The ship was coming in all the time.

322 Q. That was the only way you could avoid collision?

A. Yes. We were nearly head out and we could not anchor, because that would have made matters worse.

Q. Were the orders you gave on board the Sif obeyed by her officers and men?

A. Yes; as far as possible.

Q. Were they carried out to your satisfaction?

A. Yes.

Q. Was she entirely under your control?

A. Yes.

Q. Did anybody interfere with you?

A. No; not on board of the Sif.

Q. How fast do you think the Sterling was going when she struck the Sif?

A. I should say certainly four knots an hour, as near as I could judge. As far as my opinion goes, the only possible thing that could have been done to avoid the collision was for the ship Sterling to let go her anchor and hard-aport her helm.

323 Q. And you hallooed to her to do that?

A. I hallooed to her to hard-aport her helm, to make her go aground.

Q. Do you think she would have gone aground if she had hard-ported her helm?

A. If she had done it at the time when I first hallooed, I think she would have taken bottom.

Q. Would that have prevented a collision, if she had taken bottom?

A. Yes; I think it would.

Q. Do you know who the pilot was on the Sterling?

A. Yes.

Q. Who was it?

A. Peter Dowan.

Q. Is he an old pilot, and experienced?

A. He has three or four years' experience as a pilot. I saw Dowan a few days ago, and he admitted that he hea'd the order given by me to let go the hawser and put the helm hard aport.

Q. Did he say he obeyed it or not?

A. He said he had done it, but I don't think it was done when I first gave the order. The ship should have let go her anchor in all such cases.

324 Q. Do you think that would have stopped her?

A. Yes; when they saw that the collision was bound to take place, I think that would have stopped it.

Q. Do*u* you know what became of the hawser of the Sif at the time of the collision; was the ha*u*zer of the Sif attached to the tow-boat, or had it been cut or broken?

A. Whether it had been cut, or it parted, I could not say. I was aboard but a short time after, and did not notice the hawser afterwards.

Q. Do you know if the hawser was still attached to the tow-boat at the time of the collision?

A. I think about the time of the collision the hawser was either parted or cut.

Q. The position of the Sif you said was across the channel, and her head was pointing to the west?

A. At the time of the collision, yes, and she was on the east side of the channel.

Q. And with her head to the west?

A. Yes.

325 Q. And how long had she been in that position before the collision took place?

A. I should think four or five minutes, something like that. At a time like that you cannot tell exactly how long it lasts.

Q. Would an ordinary seaman be able to tell whether a hawser had been broken or cut? Would the end present a different appearance when cut from the appearance when parted?

A. Usually a man could tell whether it was cut or had parted. Most any seafaring man could tell the difference.

Q. Did you look at that hauzer at any time while it was being used?
A. Yes.
Q. Was it new or old?
A. It was a new hawser, or nearly new.
Q. Was it a good one?
A. It was good.
Q. Was it hemp or manilla?
A. Hemp.
Q. How big was it?
A. I think eight or nine inches.
Q. Circumference or diameter?
A. Circumference. That is as near as I could judge. I' was
326 good rope. There was no trouble about the rope.

(Reported by O. M. Tennison, stenographer.)

Cross-ex. by E. D. CRAIG:

I think it was from five to ten minutes from the time we moved from the west side to the east side when the collision took place.

A. A. DOUGLASS.

Jurat wa'ved.
M'ch 18, 1876.

E. D. CRAIG,
Proctor for Claimants.

Hearing and submission.—Extract from the minutes of April 13th, 1876.

R. M. PETERSEN ET AL.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR. } No. 10496.

This cause came up for trial.
Hornor & Benedict for libellants; E. D. Craig for claimants.
327 And after hearing argument the court took time to advise.

Judgment and reference.—Extract from the minutes of May 8, 1876.

R. M. PETERSEN & AL.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR. } No. 10496.

For reasons orally assigned the court is satisfied that the collision in this cause was occasioned through the fault and negligence of the officers and crews of the ship Sterling and tow-boat Equator.

It is therefore ordered, adjudged, and decreed that in favor of libellants and against said ship Sterling and tow-boat Equator there be judgment for all damages suffered by the Norwegian barque Sif by reason of said collision, and that it be referred to Commissioner Loew to ascertain and report the amount of the damage, with power to take testimony and call for books and papers.

328 *Rule and grounds for a new trial.—Filed May 9th, 1876.*

R. M. PETERSEN ET ALS.
vs.
THE SHIP STERLING, TOW-BOAT EQUATOR.

On motion of E. D. Craig, proctor for d'f'ts, and on suggesting to

the court that there is error in the judgment of the court rendered on May 8, 1876, in favor of libellants and against defendants; that the same is contrary to law and the evidence in the case, among other, for the following reasons:

1st. That from the evidence it will appear that the barque Sif was hard aground just previous to the collision, and entirely out of the channel on the west side thereof, with plenty of room for tows and vessels to pass, and that while there several vessels did pas' without injury or risk.

2d. The evidence shows that the Sterling was already on the
329 bar when the Sif began to move; that immediately the Sterling took the precaution to cut her hawser, port her helm, and went to the eastward as far as possible to a point 150 feet below the Sif, and if the Sif had remained on the west side of the channel, and had not floated down stream and ran afoul of the Sterling, no collision would have happened.

The testimony on both sides contributes to this conclusion, and shows that the real cause that brought about the collision was the breaking or cutting of the Sif's hawser.

3d. That the case of the Merrimack (14 Wallace, U. S. R., p. 203), upon which the court based its judgment in this case, is not analagous in the slighest degree, but the circumstances were entirely different as we are prepared to show.

4th. The court was in error in supposing that the ship Sterling should have remained outside of the bar until the Sif was relieved from her grounding. With as much reason, it might have been said the
330 barque Sif should have remained quiet, when she observed the Sterling coming into the channel, while she was yet ashore on the west bank. The evidence and unanimous opinion of all who testify on the subject is, that the Sterling had a right to take the channel, under the circumstances, and that there was no reason why she should be excluded from the channel because the Sif lay aground outside of it, and that at the time of the Sterling's entrance on the bar there was every occasion to believe the Sif was hard aground, and that she was in fact outside of the channel westward.

5. That it was a physical impossibility for the Sterling to collide with the Sif in the manner as set forth by libellants.

6. That the matters contained in the libel and the testimony of libellants' witnesses are contradictory, which ought to have some weight in the matter, while the statements of d'f'ts' witnesses and the de-
331 fence harmonize and *is* corroborated to a great extent by libellants' witnesses.

7th. The evidence shows that the Sif was out of its place; being the descending vessel, should have kept the west bank.

For this and many other reasons that can be urged, it is ordered by the court that libellants show cause, on the 16th May, 1876, at 11 a. m., why a new trial shall not be granted in this cause.

Order: New trial refused.—Extract from the minutes of May 31, 1876.

R. M. PETERSEN & AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496.

The court, perceiving no reasons to disturb the decree rendered on 8th inst.,

Ordered that the rule taken on 9th May be dismissed and a new trial refused, with costs.

Testimony for libellants.—Filed Jan'y 2d, 1877.

R. M. PETERSEN & ALS.
vs.
332 SHIP STERLING AND TOW-BOAT EQUATOR. } No. 10496.

Testimony taken under order of reference to compute damages, before K. Loew, United States commissioner, this 26th day of December, 1876.

Present, Joseph P. Hornor, for libellants; C. D. Craig, esq., for claimants.

WALTER L. ROWLEY, sworn and examined for libellants, says:

By Mr. HORNOR:

Q. Did you know the late Eugene Morris?
A. I did know him.
Q. In March, 1874, what was his business?
A. Secretary of the Good Intent Tow-boat Co.
Q. Did he have anything to do with the Tow-boat Association at that time?
A. Nothing further than being secretary of the Good Intent Tow-boat Co. That was part of the Tow-boat Association.
Q. Do you know his signature?
A. Yes, sir.
Q. Often seen him write his name?
A. Yes, sir.
Q. State whether that is his signature or not.

333 Witness being shown Exhibit No. 3 (transcribed at page) states that it is in Mr. Morris' handwriting.

O. R. LANG, sworn and examined, says:

By Mr. HORNOR:

Q. Exhibit No. 23 is one of your bills?
A. Yes, sir; that is a duplicate. I have written out three bills.
Q. Will you state whether you were paid that $40?
A. Yes, sir; as set forth in Exhibit No. 22.
Q. What was it for?
A. A broken arm of a man; I don't know whether it was the mate or sailor.
(Mr. Craig reserves objections.)
Q. You say it was paid?
A. Yes, sir.
Q. By whom?
A. Captain Lorang.
Q. For setting the arm of his second mate?
A. I don't recollect what mate it was.

GEO. SCHNEIDEAU, sworn, says:

Q. What is your business?
A. Marine surveyor.

Q. Did you ever hold a survey on the Norwegian bark Sif in
334 the spring of 1874?

A. Yes, sir.

Q. Look at this paper and state whether that is your signature.

A. Yes, sir; it is. I know my writing the moment I look at it.

Q. That is the survey that you and Captain Robertson held on the bark Sif?

A. Yes, sir; and booked in his office.

Q. Everything there is true?

A. Yes, sir.

(Mr. Hornor offers in evidence the survey marked X X.

Mr. Craig objects as it is an ex-parte document.)

Q. You are well aware of all that is contained in Document X X?

A. Yes, sir.

Q. Do you make this document a part of your testimony now?

A. Yes, sir. We have got the document copied on the books and it must be the original.

(Mr. Craig reserves the right to recall the witness for cross-examination.)

Witness states: I recognize Captain Robertson's writing and
335 signature on Document X X to be correct. I have seen him writing for many years.

Witness, being also shown Exhibit No. 21 (transcribed at page 292), is asked if that contains Captain Robertson's signature and he states he recognizes it to be so.

Q. You have often seen Captain Robertson write and sign his name?

A. Yes, sir; I used to see him write every day.

Document X X.—*Filed with Schneidau's testimony.*

SURVEYOR'S OFFICE, 58 CAMP ST.,

State of Louisiana, City of New Orleans:

The undersigned, inspector for underwriters of New Orleans and general marine and river surveyor for the inspection of vessels, steamers, and cargoes.

The Norwegian bark Sif, Captain Lorange, from New Orleans for Havre with a cargo of 1,442 bales of cotton, col'ided with the American ship Sterling while passing out over the bar at the Southwest Pass, river Mississippi, in tow of tug-boats on the 15' March, 1874, by
336 which collision she was partially dismasted, having lost both fore and main mast, with spars, part of the rigging, standing and running blocks, iron-work, &c., and damaged the hull more or less, so that it became absolutely necessary to return to this city for the necessary repairs, all the material facts of which disaster are more fully detailed in the protests.

March 20, 1874. The undersigned, having been appointed by the Norwegian consul with two Norwegian captains to survey and report the damage to said bark, on the day and date above written repaired on board the vessel at Slaughter House Point, below this city, and on the opposite side of the river, and made survey and after careful examination report as follows:

The mainmast broken off about 8 feet below the hounds; foremast also broken below the hounds.

Fore and main topmast both broken; mizzen-topmast broken; main-

topgallant-mast broken; main-yard broken at the sheave-hole;
337 maintopgallant yard broken; main royal yard damaged in the slings; fore t*russel*-trees broken; main t*russel*-trees damaged; both fore and main tops broken; boat's gallows-frame over the quarter-deck broken and the iron stanchions bent; boat's davit bent; main and monkey rail, starboard side, from mizzen rigging to the gangway, broken and damaged; fashion-piece, port quarter, broken; iron main-brace bumpkin on same side bent; port bow, bulwarks, rails, planks, &c., more or less damaged; all to be properly overhauled and repaired; metal sheathing at the water-line; port bow also broken, to be repaired; all the iron work of the mast and yard more or less broken, twisted, or damaged, to be all overhauled and repaired and put to rights again; the channel-guard iron, both sides broken and bent, to be taken off and repaired; two chain-plates on the port side twisted and bent, and mast davit-bolts backed out and the plates straightened and put back again, and also two on the starboard side; two
338 pair of foreshrouds broken, fore top-mast back-stays chafed and damaged; maintop-sail lifts damaged, to be repaired; upper maintop-sail badly chafed, to be repaired; fore maintop-mast wire-stays and main-royal stay also wire broken; some of her blocks have been split, some lost, and a part of the running-rigging, braces, &c., chafed and cut to clear the wreck, all to be repaired; one 9-inch hemp hawser 120 fathoms long parted and chafed, to be new; one boat broken to pieces, to be new. And as the mast cannot be put in again without, we advise that so much of the cotton as may be necessary to take out the old and put in the new mast be taken out and stored in the Algiers warehouse, abreast of which she is at present moored, and such of it as may be broken in getting it out and handling it be sent to one of the cotton-presses in the city and properly repaired, repressed, and sent back again, and when the masts are in, the cargo to be put
339 on board again and properly stowed.

We have estimated the value of the ship in her damaged state at twenty-four thousand dollars, gold, and the probable amount of repairs to the vessel exclusive of the cargo at five thousand dollars.

In addition to damaged articles enumerated above must be added: one iron cleet, and the woodwork to which it is fastened on the starboard bow is started and damaged, and must be repaired; the upper maintop-sail and maintop-gallant sail are chafed, and must have some new cloths stepped into each. Two wale-planks on the port bow were bruised and had to be dressed off, recaulked, &c., and all the new work, spars, &c., painted as before. All this vessel's spars, sails, rigging, iron-work, blocks, &c., were entirely new.

We have appraised the broken hawsers, standing rigging, &c., say three thousand five hundred pounds, at 3 cents per pound, or
340 one hundred and five dollars currency, to be charged to the ship and credited to the average.

Given under our hand and seal, at the city of New Orleans, this 28' day of April, 1874.

[SEAL.] RICH'D L. ROBERTSON.
G. SCHNEIDAU.

APRIL 28, 1874.

This day made further and final survey of the Norwegian bark Sif, Capt. Lorange, and find that the repairs advised in the foregoing surveys have all been completed as ordered in a proper and workmanlike manner, the cargo restowed, and, owing to the swelling and hand-

ling of the cargo, it could not all be stowed under deck again, and that ten bales have been left out and stowed on deck, lashed and secured with tarpaulins in the best possible manner.

So that the ship is now sound, tight, staunch, and strong, and in good order for the safe resumption and continuance of her in-
341 tended voyage to Havre.

We take occasion also to state that the repairs to this vessel have been retarded some eight or ten days by a long spell of unusually rainy and blowing weather, so that it has been at times impossible to do much work.

Given under our hands and seal, at the city of New Orleans, this 28' day of April, 1874.

R. L. ROBERTSON.
G. SCHNEIDAU.

WM. LUHMAN, sworn and examined, says:

By Mr. HORNOR:

Q. You are a member of the firm of Kelley & Luhman, of this city?
A. Yes, sir.

Witness being shown Exhibits Nos. 17, 18, and 19 (transcribed at pages 290 & 291) is asked:

Q. State whether these signatures on these bills are correct.
A. That is Mr. Sales' writing. He is our clerk; it is correct.
Q. The amounts of money detailed in these bills were paid by your firm?
A. Yes, sir.
342 Q. Whom by?
A. I don't recollect now.
Q. Do you know what it was for?
A. For goods furnished.
Q. To what?
A. The bark Sif, I guess.
Q. Does it not say so on the bill?
A. Yes, sir; I know that is his signature; he receipted the bills.

Cross-examined by Mr. CRAIG:

Q. Do you know that these goods went on board the Sif of your own knowledge?
A. I suppose they did; the receipts are there for them.
Q. Do you know they went on board the Sif of your own knowledge?
A. Not of my own knowledge, excepting the receipts.
Q. All you know about it is by these receipts?
A. Yes, sir.
Q. You don't know where the goods went to?
A. They must have went on board or they would not be paid for.
Q. Do you know who paid the bills?
A. No, sir.
Q. All you know is what you see on the face of the receipts?
A. Yes, sir.

343 Adjourned to Wednesday, December 27, 1876, at one o'clock p. m.

NEW ORLEANS, *December* 27, 1876.

PETERSON
vs.
SHIP STERLING AND TOW-BOAT EQUATOR.

Testimony for libellant resumed at one o'clock p. m.
Present Joseph P. Hornor and E. D. Craig, esq'r's.

RICHARD L. ROBERTSON, sworn and examined, says:

By Mr. HORNOR:

Q. What is your business?
A. A marine surveyor.
Q. And were so in 1874?
A. Yes, sir.
Q. For how many years have you been in this port?
A. Since 1828 or 1829.
Q. There is a document purporting to be a survey held by you and Captain Schneidau on the bark Sif in the spring of 1874. Do you remember that survey?
A. I remember having made a survey of her.
344 Q. State whether that is your survey of her, Document XX?
A. That is my signature at any rate, and it my writing.
Q. All of it?
A. Yes, sir.
Q. Look over what is written there and state whether you can confirm what is there?

Witness reads the Document XX and says:

A. I don't recollect anything about it, except what is there. Whatever is there is the facts of the case at that time, but I don't recollect them now. That Document XX is all in my handwriting. I stated all the damage in it that I saw to the vessel at that time. I was generally very particular about these things.
Q. Have you read that Document XX through?
A. Yes, sir.
Q. Does that awaken your recollection of the facts?
A. Not much. The report seems to be a very full one and complete.
Q. The report is made by you?
A. Yes, sir; I took a memorandum of the damages and wrote
345 that report XX.
Q. Did you made the survey personally yourself?
A. Yes, sir.
Q. You and Capt. Schneidau?
A. Yes, sir.

Cross-examined:

Q. You were not present at the collision, of course?
A. No, sir.
Q. You say your recollection of the particulars now aside from——
A. That is all I can remember. These are the facts, or I would not have written them.
Q. You base your statement from the fact that you would not make a different statement than the facts?
A. No, sir.
Q. But you don't recollect the facts at this time?

A. No, sir. I only know I wrote the facts as there.
Q. How long were you engaged at it?
A. Different times.
Q. Do you know how many bales of cotton it was necessary to take out?
A. No, sir; I think it is stated there to take out as much as was necessary.
Q. You do not recollect aside from this report the particulars
346 upon which you based your damages?
A. No, sir; the probable damage to the ship was made out by myself and Captain Schneideau, and two Norwegian captains.
Q. One was the owner or captain of the bark?
A. No, sir; they were two Norwegian captains.
Q. You don't remember who they were?
A. No, sir.
Q. You cannot state anything about the particulars of this document only what you see in it?
A. No, sir.
Q. You have no positive recollection?
A. No, sir.
(Mr. Craig objects to Document XX being received in evidence on the ground that the witness recollects nothing of it except what is written, and therefore it is too late to cross-examine him upon the matter, it being an ex-parte document.)

By Mr. HORNOR:

Q. Look at this bill and state whether that is your bill for the survey made by you amounting to $100.
A. Yes, sir.
Q. That has been paid?
347 A. Yes, sir.
Q. Do you know who paid you?
A. I don't recollect now.
Q. Do you know whether that was paid by Captain Lorang, captain of the bark Sif?
A. No, sir; but I know it was paid.

By Mr. CRAIG:

Q. This bill was paid for that survey?
A. Yes, sir.
Q. For what purpose was that survey made?
A. Made for the purpose of ascertaining the damages to the vessel and repairing her.
Q. Nothing to do with the insurance?
A. Nothing to do with the insurance.
Q. What is your occupation? Are you a port-warden?
A. No, sir; I am a marine surveyor. I don't know whether that bark was insured or not.
Q. Look at this bill, Exhibit No. 21, and state whether that has your signature.
A. That has my signature, that is a bill for renewing her French Lloyds classification. When a vessel is classed in the French
348 Lloyds classification, whenever she meets with a serious accident, she calls the French Lloyds surveyor, if there be one in the port, and as that surveyor I was called and I renewed his papers, and that is the fill for it. The amount of the bill is $40.
Q. Was this rendered necessary for her account of the collision?
A. It kept her classification.

ARCHIBALD MITCHELL sworn.

By Mr. HORNOR:

Q. You are a member of the firm of Leeds & Co.?
A. No, sir. I am mechanical superintendent for that firm.
Q. Look at that bill marked Exhibit No. 20 (transcribed at page) and state whether that bill has been paid to the firm, as it appears to be receipted there.
A. Yes, sir.
Q. That is the genuine receipt?
A. Yes, sir.
Q. Do you know anything about the materials charged for there?
A. Only generally. I have but an indistinct recollection.
349 Q. You know they were for the bark Sif?
A. Yes, sir; that is what I understood.
Q. Do you know who they were ordered by?
A. No, sir; I could refresh my memory by looking at the order-book.

Cross-examined by Mr. CRAIG:

Q. Do you know whether that was done for the bark Sif?
A. No, sir.
Q. Of your own knowledge?
A. No, sir; only from general report.
Q. Do you know that the money was paid?
A. Yes, sir. That is the receipt of the book-keeper, Mr. Taylor.
Q. Do you know whether it was paid?
A. No, sir; only from hearsay.

THOMAS J. WOODWARD, sworn and examined, says:

By Mr. HORNOR:

Q. What is your business?
A. A ship-chandler and store-dealer.
Q. Firm of Woodward & Wight?
A. Yes, sir.
Witness being shown Exhibit No. 15 (transcribed at page 289) is asked whether it is correct, and he states it is correct.
Q. Did you receive the money for them?
350 A. Yes, sir.
Q. Do you know what these things were for?
A. To repair the rigging and outfit to replace what was damaged on board the Sif.
Q. You know that these things were furnished to the bark Sif?
A. Yes, sir; I do.

Cross-examined by Mr. CRAIG:

Q. What were these goods used for?
A. Used for repairs to the rigging, sails, &c.
Q. Were you present on board the vessel and saw all these used?
A. No, sir.
Q. To whom did you sell them to personally?
A. I sold them to the captain.
Q. What is his name?
A. I don't know his name.
Q. The captain of the bark Sif?
A. Yes, sir. I don't remember his name now.

Q. Did he pay you the money or did somebody else pay you the money, or do you recollect?
A. I don't recollect that.
Q. Were you present when the sale was made?
A. Yes, sir.
351 *A. Yes, sir.*
Q. Did you make the sale?
A. Yes, sir.
Q. Did you deliver the goods?
A. Yes, sir.
Q. To whom were they delivered?
A. Delivered on board the vessel to the mate.
Q. By your drayman?
A. Yes, sir.
Q. This says "duplicate." Did you give two bills?
A. We gave two bills.
Q. Did you sign the two receipts?
A. We got it in a broker's office.
Q. You don't know whether you signed two or not?
A. Yes, sir.
Q. You signed that bill?
A. That is the firm's signature; it is my partner's signature.

WILLIAM F. GERARD, sworn and examined, says:

By Mr. HORNOR:

Q. Look at this Exhibit No. 14, transcribed at page .
(Witness being shown the exhibit, states that it has his signature.)
Q. You received the money?
352 A. Yes, sir.
Q. As set forth in this bill?
A. Yes, sir.
Q. What for?
A. I got it for these items of work done.
Q. Where was it done?
A. At my shop.
Q. Who for?
A. For the bark Sif.
Q. Did all these things go on board the bark Sif?
A. Yes, sir.
Q. What was the reason all these things went to be used on the bark Sif; had she been injured?
A. Yes, sir; she was dismasted, I think.
Q. Were these used in repairing her?
A. Yes, sir.

Cross-examined by Mr. CRAIG:

Q. Were you present when the repairs were made?
A. Yes, sir; many times I would have to go there to take the dimensions and fit them.
Q. Did you fit all these items set forth here; are these articles on the vessel?
A. Some were taken there by my men, and those that I had to
353 fit were taken there by myself or by my men. The others had to be fitted by the ship-carpenters.
Q. Do you know that this was all used on board of the vessel fitting it up, or was it not to be used for another purpose?

A. No, sir; I think not; it could not be used for any other purpose.
Q. Do you know of your own knowledge that they went on board?
A. No, sir; they might be lost before they got there.
Q. Who did all this work?
A. That was fitted by ; some by the sailors, ship's carpenters, and joiners.
Q. You did not do the work on the vessel?
A. No, sir.
Q. It is blacksmith's work?
A. Yes, sir.
Q. All blacksmith work?
A. Yes, sir.

By Mr. HORNOR:

Q. Do you know a man named A. Bidault?
A. No, sir.
Q. Do you know Mr. McMains?
A. Yes, sir.
Q. Do you know his signature?
A. Well, I don't know that I do; I think I do.
354 Q. He is dead now?
A. Yes, sir; he has been dead two years.
Q. Look at Exhibit No. 16 (transcribed on page) and state whether that is his signature.
A. I think that is his signature.

By Mr. CRAIG:

Q. Do you know it to be his signature?
A. I can swear to it.
Q. Did you ever see him write?
A. Yes, sir.
Q. Saw him write often?
A. Yes, sir; I have got his name in my books.

WILLIAM HANNON, sworn and examined, says:

By Mr. HORNOR:

Q. What is your business?
A. Master carpenter.
Q. Did you do some repairs on board the bark Sif in the spring of 1874?
A. Yes, sir.
Witness being shown Exhibits Nos. 11 & 12 (transcribed at page) states that they are correct; the amounts were paid to him.
Q. According to these bills?
A. Yes, sir.
Q. You done the work on board the Sif?
355 A. Yes, sir.
Q. What was the occasion of that work?
A. An accident, I guess.
Q. She met with an accident?
A. Yes, sir.
Q. How was she injured?
A. Carried away the foremast, mainmast, and all her spars and the bulwarks. The bill's items speak for it.

Cross-examined by Mr. CRAIG:

Q. Did you do this work yourself?
A. Yes, sir; I done it, and my men done it, and I helped myself also.
Q. Did you make a contract beforehand for the amount?
A. Yes, sir.
Q. Where is it?
A. I don't really know where it is now.
Q. Did you give it to the captain?
A. I think I did.
Q. Was it a verbal or a written contract?
A. It was a written contract.
Q. Can you produce it?
A. No, sir.
Q. That $1,100—was that paid to you?
A. Yes, sir.
Q. Who paid you?
A. The captain of the Sif; I have forgotten his name; he was a Norwegian captain.

356 Q. Was this replacing the old work or making repairs?

A. It was replacing new bulwarks, and the foremast was broke, and I had to make a new one; the foremast was broke up between.

Q. Did you put in new work?
A. No, sir; nothing but what was broken. There was a regular survey made on board the vessel before anything was done.
Q. Is this second bill included in the first $49?
A. No, sir; that is separate for extra work.
Q. Did he pay you that separately?
A. Yes, sir.
Q. In addition to the $1,100?
A. Yes, sir; he paid me every cent.
Q. You did not pay anything back to the captain?
A. I forget that now; it is so long.
Q. You would remember doing anything of that kind?
A. I cannot remember anything about it now.
Q. What I mean is, did you get this net amount?

A. I got the money into my hand; I got the money in a check.

357 Q. The question is, did you pay any of that back to the captain?

A. I don't know that I done anything of that kind.

By Mr. HORNOR:

Q. You know Mr. E. H. Garland?
A. Yes, sir; he was a rigger by profession.
Q. Where is he now?
A. I don't know, down in the third district.

Witness here examines exhibit No. 13, (transcribed at page 286) and states that it has Mr. Garland's signature.

L. F. BERGE, sworn and examined, says:

By Mr. HORNER:

Q. What is your business?
A. A commission merchant.
Q. Did you have anything to do with the affairs of the bark Sif in the spring of 1874, after she returned to this port in distress?
A. Well, I don't recollect, but may be that I gave him credit.

Q. State whether that is your signature.
A. Yes, sir; it is.
Q. That is a correct statement of your account?
A. Yes, sir.
358 *A. Yes, sir.*
Q. Are these items correct?
A. Yes, sir.

Cross-examined by Mr. CRAIG:

Q. You paid out all this money on this bill, $8,000.
A. Yes, sir.
Q. To whom did you pay it?
A. I suppose to the captain or the agents. I don't know which; perhaps I may have paid it to some of these people.
Q. Did you pay Mr. Ivy $50?
A. Yes, sir.
Q. Did you pay out these bills yourself?
A. I cannot tell whether I paid everything.
Q. Who was this account with?
A. This account was for the Norwegian bark Sif. He had a letter of credit with me.
Q. Do you know anything about the justice of these bills?
A. No, sir.
Q. You don't know anything about them?
A. No, sir.
Q. You paid them out on the captains' representations?
A. Yes, sir; that is generally the way.
359 Q. The captain presented these items to you and you paid them on his presentation?
A. Yes, sir.
Q. You don't know of your own knowledge whether this was paid out on account of the collision or not?
A. No, sir.
Q. It was only from the captain that you received information?
A. Yes, sir.
Q. You were the agent of the owners of the vessel at the time?
A. No, sir; he had a letter of credit from Goslin & Co. of New York, and I had to draw on them for that.
Q. He said you were his agent?
A. Well, I was agent of his repairs and of his accounts.
Q. Do you know anything about the insurance of the vessel in France?
A. No, sir.
Q. Do you know whether she was insured in Havre or not.
A. No, sir.
Q. Did you ever hear the captian say that she was insured there or not?
A. No, sir; I cannot tell whether they were insured or not. This s a statement made up of the bills which he entered.
Q. This is a statement made by the captain?
A. Yes, sir.
360 Q. You don't know anything of the collision personally?
A. No, sir; only I know she came up here.
Q. All that was represented by the captain?
A. Yes, sir.

Mr. Hornor offers in evidence, the document marked "Bergé" which is objected to by Mr. Craig on the ground that it is an account between the witness and the master of the vessel.

Document.—Filed with testimony of Bergé.

(Duplicate.)

To paid amounts as per bill:

1.	Edward Ivy: Noting & extending protest		$50 00
2.	Western Union T. Co.: Captain's telegram to owners	$29 30	
	Owner's answer to captain	" 29 30	
	Do. telegram to New York	" 24 50	
			83 10
3.	Towboat Asso'n: Towage to city in distress		639 80
4.	" Aspinwall: " in harbor " "		30 00
5.	Carl P. Seymer: Wharfage at Brooklyn wharf	25 00	
	Gratuity to wharf-master	10 00	
			35 00
6.	United States district court: Seizing of ship & towboat	50 00	
	Clerks of court's fees	20 00	
	Taking testimony of crew	48 60	
	" " pilot	10 40	
			129 00
7.	Hornor & Benedict: Lawyers' retaining fees	200 00	
	Pilots' expenses as witneses	100 00	300 00
361	8. Robertson & Schneidan: Surveying ship & cargo		100 00
	9. Thompson & Seymer: Discharging, storing, & reloading cargo		1,859 00
10.	Crescent Ins. Co.: Insuring part cargo in store	37 50	
11.	Sun " " " " " " "	37 50	
12.	Merchants' " " " " " " "	56 25	
13.	Home " " " " " " "	37 50	
			168 75
14.	S. W. Brown: Watching cargo in store		96 00
15.	A. Bidault: Inspection, discharging, loading, & telegram		789 78
16.	S. Brooks: Tarpaulins, for cargo on deck		30 00
17.	W. Hannon: Supply spars & extra work		1,149 00
18.	E. H. Garland: Rigging down & up spars & yards		292 62
19.	W. F. Gerard: Repairing broken iron-work		341 79
20.	Woodward & Wight: Supplying cordage, &c		533 65
21.	Kelly & Lahman: " rope, paint, blocks, &c		194 70
22.	Leed's Iron Works: Supplied castings		34 91
23.	R. S. Robertson: Surveyor for bureau veritas		40 00
24.	O. R. Lang: Medical attendance to 2d mate		40 00
25.	Capt. C. Lorange: Travelling expenses		42 00
26.	" " Provisions for self & crew while in distress		360 00
27.	" " Wages " " " " " " "		441 30
			$7,781 15

Commission on paying bills, 2½%		194 52
Custody commission on value of cargo in store, 650 b. c., @ $70 per bale, $45,500, @ 1½ %		682 50
	$8,658 17	
Advance of funds, $8,658.17, @ 2½ %		216 45
Interest on $8,658.17 @ 8 % per ann. for 3 mo's		173 16
Currency		9,047 78
At exchange, @ 112¼, gold		$8,060 38

NEW ORLEANS, *April* 30, 1874.

L. F. BERGÉ.

362 CARL P. SEYMER, sworn and examined, says:

By Mr. HORNOR:

Q. What is your business?
A. Stevedore.
Q. Were you the stevedore of the bark Sif in the spring of 1874?
A. Yes, sir.
Q. Look at Exhibit No. 5 (transcribed at page).
A. Yes, sir.
Q. Did you receive the payment of that?
A. Yes, sir.
Q. That is your signature?
A. The captain paid all that amount to me, and I paid it to the wharf (wharfinger); that was for the vessel to be alongside the wharf at Algiers.

(Witness being shown Exhibit No. 7, states that it is his own bill for work as stevedore after she came up in distress, and states that the bill is correct, that he received there called for.)

Q. Was that work rendered necessary by the damages she incurred?
A. Yes, sir; absolutely necessary.

363 Cross-examined:

Q. How many bales of cotton were on board this vessel?
A. Between fourteen and fifteen hundred.
Q. You discharged how many bales; seven hundred and fifty-three?
A. Yes, sir.
Q. And one thousand staves?
A. Yes, sir. That was necessary to take out to replace the mast and get at the damage.
Q. You took it out and replaced it?
A. Yes, sir.
Q. Has this bill been paid you?
A. Yes, sir; every cent of it.
Q. What is this item of transferring store-rent, etc.?
A. Hauling from the ship over to the warehouse.
Q. Who hauled them?
A. Myself and my men.
Q. How far is that?
A. Three hundred yards, perhaps.
Q. You charge $1.25 a bale for hauling it?
A. No, sir; for storing.

Q. How much did you charge for hauling it?
A. I took it by contract to take it from the ship, put it in the warehouse, and put it in the ship again.
Q. How much was the storing worth?
A. The storing was worth about a dollar.
364 Q. For how long? You mean the store-room was a dollar a bale?
A. Yes, sir.
Q. Not moving it?
A. Moving it of course inside the warehouse, taking it from the wharf, and putting it into the store-room. The store-rent was that, including labor, &c.
Q. Was it your warehouse?
A. No, sir; I hired the warehouse.
Q. This Atlantic press, hauling sixty bales of cotton, $114.50; how do you get that amount; was that paid to you?
A. Yes, sir. I paid it to the men that did the work.
Q. Where is the receipt for that, the Atlantic press?
A. I could not tell you.
Q. Picking and rehauling?
A. Yes, sir.
Q. Did you pay it?
A. Yes, sir.
Q. Where is the receipt?
A. I have no receipt about that.
Q. Use of wharf-planks, discharging levee, $20?
A. Yes, sir.
Q. Did you furnish that?
A. Yes, sir.
365 Q. Did you hire the wharf?
A. I hired the wharf as well.
Q. Did you take a receipt after paying out the money?
A. No, sir; I guess not.
Q. Whom did you pay that out to?
A. I paid it for the use of planks, &c.
Q. Was it your wharf?
A. We hired the wharf by contract.
Q. How long did you hire it?
A. For the bark Margaret and the bark Sif.
Q. What did you pay?
A. $20.
Q. Was that for all the vessels?
A. No, sir; that was for all the drayman coming to the bark Sif.
Q. Could you figure it all out?
A. No, sir.
(Witness being shown Exhibit No. 10, for $30 for tarpaulins of Mr. Brooks, states that he knows that to be correct; that they were paid for by the captain of the bark Sif.)

By Mr. CRAIG:

Q. How do you know they were paid for by the captain?
A. I don't know any more than that is the receipt.
Q. You did not see it then?
A. No, sir.
366 By Mr. HORNOR:
Q. Do you recognize the signature on the receipt?

A. No, sir.

By Mr. CRAIG:

Q. You say you don't know whether it was paid or not?
A. No, sir.

By Mr. HORNOR:

Q. But you say that there were Brooks' tarpaulins on board the ship?
A. Yes, sir.
Q. Do you know a man named E. H. Garland?
A. Yes, sir; I know him. He is a rigger.
Q. Did he do any work?
A. Yes, sir; he done work there.

By Mr. CRAIG:

Q. What is his business?
A. A rigger—to take out and put in new masts.
Q. Where you present when he received that amount of money?
A. No, sir; I was present.
Q. You don't know whether he received that amount on the bill or not?
A. No, sir.

Mr. Craig admits that $50 was paid as on the bill to Mr. Edward Ivy.

367 Mr. Hornor offers in evidence all of the exhibits annexed to Captain Lorange's testimony.

Mr. Craig admits the $50 paid to Mr. Ivy to be correct.

Mr. Hornor also offers the certificates of the Crescent Mutual Insurance Co. and the Sun Mutual Insurance Co.

Mr. Craig objects to their reception in evidence, but admits the genuineness of them.

Mr. Hornor here gives notice that his case is closed:

I hereby certify that the foregoing forty-three pages, comprising the depositions of the eleven witnesses named, was taken down phonographically by me and correctly rendered and transferred as above.

HENRY LANGFORD,
Phonographer.

Sworn to and subscribed before me this 2d day of January, 1877.

K. LOEW,
Comm'r C. Court.

Certificate of Sun Mutual Insurance Co.—Filed with testimony of above.

368 Copy of policy No. 10768.

OFFICE OF THE SUN MUTUAL INSURANCE CO.,
New Orleans, Dec'r 27, 1876.

This is to certify that Capt. Carl Lorange effected insurance with this company under special fire policy No. 10768, dated March 21st, 1874, on cotton in bales, being portion of cargo of Norwegian bark Sif, stored and to be stored in the one-story frame iron-covered warehouse in Algiers, known as Algiers warehouse # 2, occupied by Cochran and Cazares, $35,000 additional insurance (elsewhere).

For the term of one month from May 21, '74.

To am't of $10,000 @ $\frac{3}{8}\%$. Premium, $37.50.

For a/c whom it may concern.
Premium paid April 6th, '74, $37.50, less 5 % rebate, $31.88.
Given under my hand and the seal of the company.
H. CARPENTER, *Sec'y.*

Certificate of Crescent Ins. Co.—Filed with testimony above.

M'ch 21st, 1874. # 18610. Capt. Carl Lorange a/c.

369 Whom it may concern:

On cotton in bales, being portion of the cargo of the Norwegian bark Sif stored or to be stored in the one story-frame iron-covered warehouse in Algiers, known as the Algiers warehouse, now occupied by Cochran and Cazeres. $55,000 additional insurance, $10,000 for one month to noon of April 24, 1874.

$10,000, 3/8 $37.50.
Paid less, 15% " 5.62, April 20, '74.
Rec'd " 31.88.

CHAS. E. RICE, *Sec'y.*

Certificate Home Insurance Co.—Filed with testimony.

HOME INSURANCE CO. OF NEW ORLEANS,
New Orleans, Dec. 27, 1876.

This is to certify that Capt. Carl Lorange did, for a/c of whom it may concern, effect fire insurance in this company to extent of ten thousand dollars on Mc'h 21, '74, on cotton in bales, being part of the cargo of the Norwegian bark Sif stored in the frame iron-covered warehouse known as the Algiers warehouse, for 1 month from Mc'h 21, '74; pre'm $37.50, paid Ap'l 13, '74.

370 CHARLES LESSASSIER, *Sec'y.*

Testimony for claimants.—Filed Jan'y 13th, 1877.

United States district court, district of Louisiana.

R. M. PETERSON ET ALS.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR.

Testimony taken on behalf of claimants on the assessment of damages, before K. Loew, United States commissioner, this 11th day of January, 1877.

Present, E. D. Craig, esq., for claimants; Joseph P. Hornor, esq., for libellants.

SILAS WEEKS, sworn and examined for claimants, says:

By Mr. CRAIG,

Q. What is your business?
A. Steamship agent and ship-broker.
Q. Have you ever had any experience in having cotton that was damaged inspected?
A. No, sir; not damaged cotton. I have had experience in

371 discharging cotton where it was not damaged, on the ship's returning.

Q. What was the occasion of discharging the cotton?

A. The ship had lost her propeller and had to return and go into the dock to have a new propeller.

Q. From your experience, what have you been accustomed to pay for inspecting cotton?

A. We sent four hundred and twenty-five bales of cotton to the press to be repressed, and they charged us $425 *dollars* for putting it in good repair.

(Witness having referred to a memorandum while making the above statement, counsel for libellants objected to his doing so.)

Q. You paid for the cotton inspected?

A. Yes, sir.

Q. Did you pay as much as a dollar a bale for it?

A. I think we paid a dollar a bale for all that went to be repressed, but we did not pay a dollar a bale on the whole cargo, that is, what went to the cotton-press to be repressed, four hundred and thirty bales.

Q. That was damaged cotton?

A. Cotton where the bands were off and the bagging torn, but
372 the cotton was not damaged.

Q. How much did you pay altogether?

A. I say a dollar a bale; the inspector's bill is $450. There were twenty-five hundred bales on the ship.

Q. Was it all inspected?

A. I don't know; they inspected what went to the press; they said what should go to the press, and what should remain in the ship.

Q. They did not charge for that which did not go to the press?

A. I don't know; they charged for the whole. They charged so much it was left to arbitration.

Q. Is there any rule about inspecting cotton?

A. I think the chamber of commerce has a rule.

(Mr. Hornor, for libellant, objects to any rule the chamber of commerce may have as affecting this case.)

Q. You don't know what the customary charges are?

A. No, sir; but the chamber of commerce have rules about it.

(Mr. Hornor objects to any other rules than those governing the case.)

373 Q. You don't know what the customary inspection charge is?

A. No, sir; I don't know what it is, but I think——

(Mr. Hornor objects to what witness thinks.)

(Mr. Craig calls upon the witness to send down the memorandum from his book as to the cotton he paid for inspecting, and Mr. Horner, for libellants, objects, and propounds the following interrogatories to witness under his objection:)

By Mr. HORNOR:

Q. Did you make the entry in your books spoken of?

A. No, sir; I did not; my made it.

Q. What knowledge have you of that entry; did you ever see it?

A. Yes, sir; I have seen it in the book.

Q. How long ago?

A. Yesterday. I saw it when I went to the book. I went to take it off, and I told the clerk to do it.

Q. The handwriting in the book is the clerk's handwriting?

A. No, sir; a bookkeeper that has since died.

Q. It is in his handwriting?
A. Yes, sir.
Q. What is his name?
374 A. Bowman.
Q. What is the present bookkeeper's name?
A. Shields.
Q. What steamship was it?
A. The Memphis; she grounded on the bar and broke her propeller.
Q. Who made the payment in that case?
A. Silas Weeks.
Q. Did you yourself pay it?
A. No, sir; I don't think I did.
Q. Were you there when it was paid?
A. Probably I was.
Q. Do you know by any other means besides the entry on your books that it was paid?
A. Of course I do.
Q. How do you know?
A. By the accounts.
Q. Did you make these accounts?
A. No, sir; I did not, but the bookkeeper did.
Q. You knew through the bookkeeper?
A. Yes, sir; and through my account and the drafts that I drew.
Q. Did you draw the drafts yourself?
A. Yes, sir; I did.
Q. When you produce that memorandum produce that draft.
A. It has gone to England to the owners.
Q. How long ago is that?
375 A. Three or four years ago. I think the whole expense upon the ship was $35,000.
Q. Did you keep a bill-book?
A. Yes, sir; we do.
Q. And a draft-book where you keep the stub of the draft?
A. Yes, sir.
Q. Produce the stubs of this book where these drafts were drawn, so that I may see them. The original bookkeeper was dead at that time?
A. No, sir; he is dead now.
Q. You had no partner at the time?
A. No, sir.
Mr. Hornor, for libellants, call upon the witness to produce the stubs of his draft-book and his bill-book.
A. I don't know whether I have them or not.
Q. If you have not got them, where are they; you say you kept them?
A. Well, I don't know that we did keep them.
Q. Was it ever your habit to keep the stubs of your draft-book to show whom the drafts were paid to?
A. No, sir; not for drafts.
Q. You never did?
A. No, sir; I am not sure.
376 Q. Did you do it for notes?
A. When we would draw we used to enter it into our account.
Q. You did not enter it as a stub?
A. No, sir; I don't think we have any drafts drawn on Baring or any one that we kept the stubs of.

Q. But you have in the check-book?
A. Yes, sir.
Q. But not in the draft-book?
A. No, sir.
(Mr. Horner calls for the stubs in the witness' draft-book, if there are any, and reserves the right to examine the witness further when the books come into court.)

By Mr. CRAIG:

Q. You know that the account that you have in your books was correct at that time?
A. Yes, sir.
Q. I want a statement of what you paid for inspecting the cotton?
A. Did I not tell you that I could not tell?
Q. I want the account from your book of how many bales of cotton you had inspected, and what you paid for its inspection. Make
377 it in your own handwriting, or compare it with the books, so as to be able to say it is correct.
A. Yes, sir.

By Mr. HORNOR:

Q. You say that you know the account is correct. I want you to state upon what ground you base your belief that that account on your books is correct?
A. Because it is the account, and we paid them.
Q. Because you paid the account as it appears on your books?
A. Yes, sir.
Q. There could not possibly be any error.
A. No, sir; no error whatever. We paid the account as it is in book.
Q. you cannot say whether that was paid by you personally or not?
A. They were not paid by me personally; they were paid by the cashier.
Q. He is dead?
A. Yes, sir.
Q. You know he paid it because he entered it in the book?
A. Yes, sir; and the bills were never presented afterwards. I suppose if they were not paid we would be called upon to pay them.
378 Witness (referring to his memorandum, which by consent of counsel he is permitted to do) says that the cargo of the Memphis consisted of twenty-five hundred and thirty bales of cotton, the charges he paid for the survey of which was $348, four hundred and thirty bales of cotton being damaged. I mean inspection, and for everthing by survey I mean inspection.

SAMUEL BOYD, sworn and examined for claimants, says:

By Mr. CRAIG:

Q. What is your business?
A. Cotton-press proprietor.
Q. What is the ordinary value of transporting, storing, and store-rent for one month, or by the month, of cotton per bale, say where the transportion is about three squares?
A. The ordinary price that I get for a majority of my business is fifty cents per bale.
Q. Does that include the transporting?

A. That is for dry cotton from the steamboat to the cotton-press and storing it and taking care of it; fifty cents.

Q. Storing for how long?

A. For one day or for six or eight months?

379 Q. It would be the same?

A. Yes, sir; that is, for regular business.

Cross-examined by Mr. HORNOR:

Q. Would you call it regular business for a ship to come up near your press in distress and you discharge it and roll it into your yard until the ship is repaired?

A. No, sir; that would not be regular business?

Q. Were there were six hundred and fifty bales how much would you charge?

A. My usual charge for cotton from wrecked ships or ships returning in distress is from two to two and a half dollars per bale.

Q. That is for transporting, storing, and everything?

A. Yes, sir; storing and everything else.

By Mr. CRAIG:

Q. That is in the case of damaged cotton?

A. Yes, sir.

Q. Suppose it was not damaged, but in its ordinary condition?

380 A. We take it just as it comes, with the chances of damage and everything else. The last cargo I took was from the ship Majestic, and I got a dollar and a half a bale for that.

By Mr. HORNOR:

Q. In this case of the ship Majestic, how many bales of it was good?

A. I don't recollect now.

Q. Were there six hundred and fifty bales?

A. Yes, sir; more than that.

By Mr. CRAIG:

Q. Suppose this cotton was in good condition when taken out of the vessel, would that make any difference in the charge than ordinary cases?

A. Would I make a different charge from what I would do in my regular business on the levee?

Q. Yes.

A. Yes, sir; I would.

Q. That would be by the contract generally?

A. Yes, sir.

Q. What would it be worth straightout where six hundred and fifty bales of cotton were brought out of a vessel in an undamaged condition, hauled by you to your warehouse, hauling, storing, and store-rent; what would it be for transporting, storing, and store-rent, the

381 store being away from the vessel and the hauling of the cotton to it, six hundred and fifty bales?

A. I think I remember the case of the ship Memphis.

Q. This is not the case of the Memphis; it is the bark Sif.

A. I would not be willing to do it for less than a dollar a bale; a case of that kind is generally by contract, and I would not offer to do it for less than that.

By. Mr. HORNOR:

Q. Suppose you had to transport it both ways, how much would you charge?

A. I never had a charge for less than a dollar and a half in case of damaged cotton, or a cargo that came in distress.

Q. In this case, there was transporting, storing, and store-rent of six hundred and fifty bales that came from the bark Sif, and had to be repaired, and then charge for hauling it about three squares and storing it for six or eight weeks, at the rate one dollar and twenty cents per bale.

A. Was there any compressing about it?

Q. No; but I ask you if this was a reasonable charge?

382 A. It is just as I told you; it is a matter of contract.

Q. But it is not unreasonable?

A. No, sir.

By Mr. CRAIG:

Q. Would you not do it for less than a dollar and twenty cents a bale, transporting it and storing it?

A. That would be according to circumstances; I might do it; what time was it?

By Mr. HORNOR:

That was in 1874.

A. Well, I don't know, but the present time I would not do it.

Q. It was in April, 1874.

A. Well, the presses are generally pretty busy then.

Q. They were busy then?

A. Well, at the present time, I would not take a cargo hardly at any price.

Q. But the presses were busy in 1874?

A. Yes, sir.

Q. And therefore, they would charge more.

A. Yes, sir; I suppose so.

By Mr. CRAIG:

Q. Suppose, without regard to whether this vessel was in dis-

383 tress or not, suppose it was in good order on the levee and discharged, do you not think fifty cents a bale for transporting and storing said cotton would be sufficient?

A. No, sir; not without we had the compressing of it. It would be an inducement to take it to press it. I want to qualify that fifty cents. We could not take it unless we had the pressing.

Q. What difference would that be?

A. The compressing is seventy-five cents a bale, but where it is already compressed we could not take it for less than seventy-five cents a bale.

Q. Would you not do it in April, 1874; would not many do it for seventy-five cents?

A. I cannot really tell you.

Q. Where a ship is in distress, you always understand some of it damaged?

A. Yes, sir; some in bad order.

Q. But this was in good order; would you not make a difference if it was in good order?

A. If it was guaranteed beforehand, we might.

Q. Suppose you made a bargain subject to the way you found,

384 would you not think seventy-five cents would be sufficient then?

A. Well, I might under circumstances take a load of cotton from the levee and store it.

By Mr. HORNOR:

Q. You might, but you don't know whether you would or not?

A. No, sir; I don't know. This fifty cents is taken for the purpose of getting the compressing and the drayage out again, which would amount to a dollar a bale. It is worth more than fifty cents a bale.

Q. Do you know anything of the charges in April, 1874, for transporting cotton, storing, and store-rent in Algiers?

A. No, sir.

Q. Would you under any circumstances have undertaken to have brought that cotton from Algiers and stored it in your press?

A. Yes, sir; if I was paid.

Q. How much would you charge for taking it across the river and storing it?

A. I would not do it for less than two dollars a bale.

Q. You don't know what the charges are over there?

385 A. No, sir.

Q. Is there any presses over there?

A. Yes, sir.

Q. Which one?

A. Morgan's press.

Q. Are the facilities greater for storing cotton here or on the other side of the river?

A. Very much better over here.

By Mr. CRAIG:

Q. In case there was six hundred and fifty bales inspected for the insurance company?

(Mr. Hornor objects, as it is not brought out in the direct examination.)

Q. What would it be worth to examine cotton per bale of this description—cotton taken from a vessel without being damaged?

A. I never had a charge of that kind to make myself from the hearsay of brokers.

Q. You don't know what the customary rule is?

A. From a dollar a bale down.

(Mr. Horner objects to hearsay, and the case for claimants was here closed.)

386 I certify that the within depositions embraced in the foregoing pages was taken down phonographically by me, and afterwards correctly rendered and transcribed.

H. LANGFORD.

Sworn to and subscribed before me this 13th day of January, 1877.

R. DEVONSHIRE, *Dy Clk.*

Commissioner's report on damages.—Filed Jan'y 22.

R. M. PETERSON & AL.
vs.
SHIP STERLING AND STEAM TOWBOAT EQUATOR. } No. 10946.

To the Hon. E. C. Billings, judge of the district court of the United States for the district of Louisiana:

This is a suit for damages resulting from a collision between the Norwegian bark Sif and the ship Sterling and towboat Equator.

The Sif, a vessel of 589 tons, tight, staunch, and well manned,
387 provided, and equipped, left the port of New Orleans on 10th March, 1874, with a cargo of cotton, bound for Havre, France. She arrived at Southwest Pass, and was brought to anchor on the Miss. River at a point opposite Pilot Town, on 11th March, 1874, and being then unable to cross the bar (the same being obstructed), she remained at her anchorage until the 15th March, '74, when the collision took place.

Upon a hearing of the cause, your honor decided that the ship Sterling and the towboat Equator were both in fault, and that the Sif was entitled to recover all damages she had suffered in consequence of the collision, and it was referred to me to examine and report the amount of damages.

Subsequent to the trial further testimony was taken with reference to damages, and the case was argued before me by proctor for claimant, the libellant's proctor declining to make further argument.

Most all items are objected to as overcharged, which will require from me a critical examination of the evidence.

388 The items specially objected to are the following:

Item $785, in the bill of Thompson & Seymer, for transporting storing and store-rent for 650 b. c., @ 1.20 per bale; 1,000 staves, $5.

Item 292.62. Bill of E. K. Garland for rigging.

Item $743. Bill of A. Bedault for inspecting and attending to the breaking out and stowing back of 743 b. c. from the bark Sif, in order to replace the main or fore mast.

Item $40. Bill Capt. Robertson for bureau veritas.

Items $1,149. Bills of W. Hannon for repairs.

Item $341.79. Bill W. F. Gerard for repairs.

Item $533.65. Woodward & Wight, ship-chandlers, &c.

Item $194.70. Kelly & Lahman, repairs.

Item $34.91. Iron founders.

On the item $785 we have the testimony of Capt. Lorange, who says that before he made the agreement with Thompson & Seymer he went to several cotton-presses, who would not do the work for less than $1.30 per bale.

389 We have further the testimony of Mr. Silas Weeks, a ship-broker, and that of Mr. S. Boyd, a cotton-press proprietor.

The testimony of the former does not throw much light on the subject, but that of Mr. Boyd is direct. He says: "My usual charge for cotton from wrecked ships or ships returning in distress is from $2 to 2½ per bale." The last cargo he took was from the ship Majestic. He got $1.50 per bale for that, and over 650 bales of that cargo were in good condition; and being asked if this charge of $1.20 per bale is unreasonable, he says "No."

The bill is allowed.

The objection to item $292.62, bill of Garland for rigging, is that it has not been proven.

I find that the bill is proven by Capt. Lorange to have been paid; the signature to the receipt is proven by Wm. Hannon. Seymer proves that Garland worked on the Sif as a rigger.

I consider the bill fully proven, and it is allowed.

Item $743, bill of Bidault for inspecting, &c., is objected to as
390 extravagant and extortionate and unnecessary. I must confess that this item had at first somewhat perplexed me, but on a careful consideration of Capt. Lorange's testimony, who thought the bill was extravagant until he got information from the underwriters at

Havre, whom he had telegraphed to know whether he should pay it, and his recital of the object of the inspection, I can come to no other conclusion than that the bill must be allowed.

Item $40, Capt. Robertson for bureau veritas, I consider a proper charge, and must be allowed.

Items $1,149, W. Hannon for repairs.
" 341.79, W. F. Gerard " "
" 533.65, Woodward & Wight "
" 194.70, Kelly & Luhman "
" 34.91, Leeds & Co. "

These bills are objected to as overcharged. The claimants rely on the testimony of the witness John Maxwell, who stated he would have made the repairs to the Sif, as set forth in the estimate made part of his deposition, for $1,251, except the rigging. On cross-examination Mr. Maxwell says he is foreman of the tow-boat line; does
391 the repairs of the Good Intent and Flanagan line; the Equator belongs to the latter, and he never worked on his own account in this port.

In my judgment the claimants cannot, by such uncertain testimony, overthrow the positive evidence of the libellants, who have placed on file receipts showing actual payment of proper and reasonable charges for repairs which has become necessary by reason of the collision.

The items must be allowed as they stand.

As to the other items, which will appear in the statement of the allowed damages hereto annexed, I have only to say that they are fully sustained by the evidence and require no further explanation.

I have rejected Exhibit 16, bill of McMahon, $10.50, because it is duplicated and included in bill 19, paid to Kelly & Luhman.

Also rejected item $129, costs of court, as the proper time for taxing costs against the claimant will be when the decree of the district court will have become final.

392 And I have rejected all items which are not included in the statement of the allowed damages, as not properly chargeable to the claimants.

STATEMENT OF DAMAGES ALLOWED.

Edward Ivy, for noting and extending protest	$50	
Telegram from capt. to owners	25	70
Tow-boat ass'n for towage to city, in distress	639	80
Wharfage at Brooklyn warehouse	25	
Tow-boat Aspinwall, towage in harbor	30	
Robertson & Schneidan, for survey	100	
Thompson & Seymer, stevedores	1,859	35
Crescent Insurance Co., for premium	31	88
Sun " " " "	37	50
Home " " " "	37	50
Merchants' M. " " " "	56	25
W. S. Brown, watching cargo in store	96	
A. Bidault, inspecting, &c	743	
S. Brooks, tarpaulins	30	
W. Hannon, supplying spars & making new foremast	1,149	
E. H. Garland, rigging	292	60
Wm. F. Gerard, repairing broken iron work	341	79
Woodward & Wight, cordage, &c	533	65
Kelly & Luhman, ropes, paints, blocks, &c	194	70

	Leeds & Co., castings	34 91
	R. L. Robertson, for certificate for bureau veritas	40 00
	Provisions for master & crew while in distress, 45 days	360 00
393	Wages for master and crew for same period	$441 30
		$7,150 35

On detention and demur'age:

It is always impossible to fix with certainty the compensation to be allowed for these claims. The vessel was detained 45 days. Capt. Lorange in his testimony tells us that the Sif during the time she was detained could have arrived in France, and in all probability been out of there again; that he estimates his freight at £2,000, and if he reckoned only the half of that for the owners' benefit he thinks he would have made at least that. Further on he says, "My freight is 2,000 pounds. I would spend £800, which would leave 1,200, and half of that would be my profit on that voyage."

On the other hand, stress of weather or unavoidable accidents might have befallen the vessel, and the trip might have resulted in a loss instead of a source of profit. The owners are, however, entitled to something, and considering that I have already allowed for the main-
394 tenance of the crew, and for their wages during the detention, I will allow $1,500 for demurrage as a reasonable compensation.

On the question of allowing demurrage, refer the court to 9 Blatchford, page 220, the St. John, and page 389, same book, the Cayuga.

This sum added to the above items will make a total of $8,400.35, from which must be deducted the value of the broken hawsers and standing-rigging left on the Sif, valued by the inspectors at $105, and the total damages allowed will be eight thousand two hundred and ninety five $\frac{35}{100}$ dollars ($8,295.35).

Respectfully submitted.

(Signed) K. LOEW,
Comm'r Circuit Court, La.

I respectfully ask a reasonable to be allowed fee for my services, and suggest $250, subject to approval of court.

K. L.

Objections to report of commissioner.—Filed January 26, 1877.

395 R. M. PETERSON ET AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496. U. S. dist. c't.

Now comes the def'ts and claimants in the above cause and except to the report of Com'r Loew, filed Jan'y 22, 1877, relating to the damages assessed, viz:

The amount of damages charged are excessive, although in most instances are shown to be paid to various parties, yet there is not evidence to show that the prices paid were reasonable and the materials and labor furnished actually necessary to restore the vessel to the condition she was before the alleged collision. Capt. Lorange is the only party who testifies the necessity of the repairs, &c., but nothing is shown satisfactory that the prices charged were reasonable. Capt. Lorange, it will be remembered, is a part owner of the damaged bark Sif, but partially acquainted with our language, a stranger here, a

resident of Norway, and ignorant of the prices charged here, and
396 is made to say in a stereotype way that the bills concerning which he testifies "were in consequence of the collision."

We submit such testimony for so large an amount as $8,000, from an interested witness, is not sufficient, merely with the circumstances that he shows that he has paid the bills simply, without any evidence as to their necessity and reasonableness.

Among the various items charged we beg leave to object to the following: To items of $25.70, telegram from capt. to owners, the same as Exhibit No. 2 in Lorange's testimony. This item is a charge for a telegram from Capt. Lorange, master and part owner of the bark Sif, to the co-owners in Norway; there is no reason shown for this; had Lorange been simply an agent and not part owner there might have existed some reason.

$100. Robertson and Schneidan, for survey. Exhibit 6 of
397 Lorange's testimony. This was a second survey for the benefit of foreign underwriters at Havre, where the vessel was insured, as appears from Capt. L.'s testimony, and was not a necessary item, for the purpose of restoring the vessel toits original condition.

$1,859.75. This item of the stevedore, Exhibit 7, for unloading 743 bales of cotton and 1,000 staves, being about one-half of the cargo, appears to be not only an extravagant bill, but it is not shown to be one of those which were absolutely necessary, as no part of the cargo was damaged. Maxwell (page 36) says that there was no necessity whatever to take out the cotton, and the suspicion forces itself to the mind that this was one of the jobs intended either to bleed the foreign underwriters or the party against whom a case might be made for damages.

$743. A. Bidault, inspecting, &c., 743 bales cotton, as per Exhibit No. 9, in Lorange's testimony, is a wicked attempt to get $743
398 for inspecting 743 sound bales of cotton. No necessity existed, or is shown to exist, and if there was a necessity the charge is quadruple what should be charged in the case. In the case of the ship John Parker about 25c. per bale was allowed by the court.

$30. S. Brooks, for tarpaulins. The captain testifies that he bought these tarpaulins and intends to sell them in Havre. We submit he has value received and the charge cannot be allowed.

The following items:

W. H. Hannon's bill	$1,149
E. H. Garland	292 62
W. H. Gerard	341 79
Woodward & Wight	533 65
Leeds & Co	34 91
Total am't of	$2,351 97

The amount of $2,351.79. Maxwell in his testimony *Maxwell* says he would do the whole work and furnish materials for $1,251; to which he adds $250 for rigging, making in all $1,551, making a sum of
399 $800 less than charged by Lorange. We think that Maxwell's opinion more entitled to respect than that of Lorange, being a disinterested party. Says that he, if the job had been offered to him, would have taken it, and he shows that his employment by the tow-boat association did not prevent him from so acting.

$40. R. L. Robertson, for certificate for bureau veritas, is a charge made where the necessity does not appear.

As to the charge for provision, $360. and $441, wages for master and crew, if the item of demurrage be allowed, then it is respectfully submitted there should not be allowed, being a part of the 'amages sustained by the detention of the bark.

The real damage for detention does not appear beyond the expenses of the crew. and in absence of such proof it is suggested that if any demurrage be allowed at all the simple interest at 8 per cent. on the value of the vessel, which can be readily established, would be sufficient. Such seems to have been the practice of the courts in
400 cases of this kind. (See case of Rhode Island, Abbot's adm'r, 100.)

We further object, which should more properly have been done at the beginning of these exceptions, to the manner in which Capt. Lorange has attempted to establish his damages; if his intention was to charge claimant therewith, a survey should never been held according to commercial usage, and the parties in interest notified to be present; in this case the proceedings were ex parte, and the only estimate of damages was that made by Mr. Maxwell, which the commissioner in his report entirely ignores. At the bottom of the commissioner's report we observe an item which had almost escaped our attention, but which seems in keeping with the large amounts charged to defendants in this report, to wit, the charge of $250 for commissioner's report.

We respectfully submit that we are unwilling to suffer to that
401 extent, with all our other misfortunes, and submit that one-half that sum would be entirely too large.

Respectfully submitted.

E. D. CRAIG,
Proctor for Def'ts and Claimants.

Amendment to report.—Filed July 27, 1877.

PETERSON & AL.
vs.
SHIP STERLING & EQUATOR. } 10496.

Since the filing of my report I have re-examined the evidence, and find that I have overlooked the fact that the tarpaulins were bought by Capt. Lorange from Sam'l Brook, to cover the cargo; that they are yet on board the vessel, and that the captain will sell them at Havre as quick as he can give the claimants the benefit of it. (See deposition of Capt. Lorange.)

This item of $30 should, therefore, be rejected, which will reduce the amount of damages allowed to $8,265.35.

Respectfully submitted.

402 K. LOEW, *Comm'r.*

JAN'Y 27, '77.

Hearing and submission on report.—Extract from the minutes.—Jan'y 27, 1877.

R. M. PETERSON & AL.
vs.
SHIP STERLING AND STEAM TOW-BOAT EQUATOR. } No 10496.

This cause was called on the commissioner's report assessing damages.

Hornor & Benedict for libellants; E. D. Craig for claimants.
And after hearing argument, the court took time to advise.

Judgment.—Extract from judgment-book.

R. M. PETERSON & AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496.

Upon a due consideration of the commissioner's report and the objections thereto made, it is ordered, adjudged, and decreed by the
403 court that objections be overruled, the report as amended confirmed, and that the ship Sterling and the tow-boat Equator be condemned in solido to pay the libellants, R. M. Peterson & al., the sum of $8,265.35 *dollars* damages and costs of suit.

It is further ordered that a fee of $250 be allowed the commissioner for his services, and that the same be taxed as costs.

And considering that the said ship Sterling and said tow-boat Equator were both released from seizure and restored to their respective owners, upon furnishing bond conditioned as the law directs, it is further ordered and decreed that E. & A. Sewell and others, owners of the ship Sterling, by J. G. Baker, master, and their lawful bailee, as principal, and Robert R. Decan and Jas. F. Read, as sureties on the release bond, and S. & J. M. Flanagan, owners *owners* of the tow-boat Equator, as principals, and said Edw. A. York, as surety on the release bond, be condemned in solido to pay the foregoing judgment, with costs.

404 Judgment rendered February 2, 1877.
Judgment signed February 7, 1877.
(Signed) EDWARD C. BILLINGS, *Judge.*

Motion & order of appeal.—Extract from the minutes of February 16, 1877.

R. M. PETERSEN & AL.
vs.
SHIP STERLING & TOW-BOAT EQUATOR. } No. 10496.

On motion of E. D. Craig, proctor for claimants, def'ts herein, and on suggesting to the court that a judgment in favor of libellants in the above cause was rendered on Feb'ry 2d, 1877, and signed on February 7th, 1877, against claimants and defendants herein, to wit, E. A. Sewell and others, owners of the ship Sterling, and against Jas. E. Read and Robert R. Decan, sureties on the release bond of said ship Sterling and against S. & J. M. Flanagan, owners of the tow-boat Equator, and Edward A. Yorke, surety on the release bond of said tow-boat
405 Equator, *and Edward A. Yorke, surety on the release bond of said tow-boat Equator;* and whereas said claimants and def'ts are informed and believe that there is error in the judgment aforesaid, and that it is contrary to the law and the evidence in the cause, will work to their prejudice, and that there is no relief except by appeal to the next circuit court of the United States for the district of Louisiana; and on further presenting a bond in the sum of $14,000, conditioned according to law, with a surety satisfactory to libellants:

It is ordered by the court that a suspensive appeal be allowed the aforesaid claimants and defendants herein, operating as a supersedeas

against the judgment aforesaid, returnable to the circuit court of the United States for the 5th circuit and district of La. on the fourth Monday of April, 1877.

Appeal bond.—Filed February 16th, 1877.

406 UNITED STATES OF AMERICA,
District of Louisiana:

Appeal bond.

District court of the United States. In admiralty.

R. M. PETERSEN & AL.
vs.
THE SHIP STERLING AND THE TOW-BOAT Equator. } No. 10496.

Know all men by these presents that we, E. A. Sewell and others, Robert R. Decan, Joseph E. Reade, S. & J. M. Flanagan, and Edw. A. Yorke, as principals, and Edward A. Yorke, as surety, are held and firmly bound unto R. M. Peterson & als., libellants in above suit, in the sum of fourteen thousand dollars, to be paid to the said R. M. Petersen & als., for the payment of which well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our, and each of our, heirs, jointly and severally, firmly by these presents. Sealed with our seals and dated at New Orleans, the 16th day of February, 1877.

407 Whereas the above-named E. A. Sewell and others, principals, and Rob't R. Decan and Jas. E. Reade, sureties on the release bond of the ship Sterling, and S. & J. M. Flanagan, principals, and Edward A. Yorke, surety on the release bond of the tow-boat Equator, in above cause, have appealed to the next term of the circuit court of the United States, on the fourth Monday of April, 1877, for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered against them on the 2d day of February, 1877, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against them if they fail to make their appeal good, then this obligation to be void; otherwise the same shall be and remain in full force and effect.

408 For E. A. SEWELL AND OTHERS, &
JAS. E. READE, &
For S. & J. M. FLANAGAN,
By E. D. CRAIG, *Their Proctor.*

(Signed) R. R. DECAN. [L. S.]
" EDW. A. YORKE. [L. S.]

Surety satisfactory.

H. & B.

Bond approved.
(Signed) EDWARD C. BILLINGS, *Judge.*

United States district court for the district of Louisiana.

CLERK'S OFFICE.

I certify that the foregoing 395 pages (408 in this transcript) contain and form a correct and complete transcript of the original record in the case of R. M. Petersen et al. vs. The Ship Sterling and the Tow-boat Equator, No. 10496 of the docket of our said court, including all documents filed and evidence adduced on the trial of said cause.

In faith whereof I hereto set my hand and the seal of our said court, at New Orleans, this 17th March, 1877.

[SEAL.] (Signed) R. DEVONSHIRE,
D'y Clerk.

409 PROCEEDINGS IN THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

Submission of case.—Extract from the minutes.—November term, 1876.

NEW ORLEANS, *Thursday, April 19th*, 1877.

Court met pursuant to adjournment.

Present, Hon. W. B. Woods, circuit judge.

R. M. PETERSON & AL. *vs.* SHIP STERLING & AL. } No. 8155.

This cause came on to be heard on the transcript of the record from the district court of the U. S. for this district, and having been argued by Hornor & Benedict for appellees and E. D. Craig for appellants, the court took time to consider.

Motion to make parties.—Filed May 2d, 1877.

U. S. circuit court.

R. M. PETERSON ET ALS. *vs.* SHIP STERLING AND TOW-BOAT EQUATOR. }

On motion of Hornor and Benedict, proctors for libellants in
410 the above-entitled suit, and on suggesting to the court that since final judgment was rendered in the above-entitled suits in the U. S. district court, and since the appeal therefrom has been pending in this court, Robert R. Decan, one of the sureties upon the bond given for the release of the ship Sterling, has died, and his succession has been opened in the second district court for the parish of Orleans, in this State, under the No. 39331, in which proceedings his sole heirs are declared to be his children, George R. Decan, William R. Decan, *William R. Decan*, Jennie J. Decan, and Mary U. Decan, all of whom are minors except the first named, and Mrs. Jane W. Decan has been recognized and confirmed as widow in community of said Robert R. Decan, and natural tutrix of her minor children, and said Mrs. Jane W. Decan, who resides in New Orleans, should be made parties herein as the legal representatives of said surety, Robert R. Decan.

411 It is ordered by the court that said George R. Decan and said Mrs. Jane W. Decan, in her aforesaid capacities as widow in com-

munity and natural tutrix, be made parties to this suit as the legal representatives of said Robert R. Decan, deceased, and that they be severally served with a copy of this order.

Marshal's return.

Received May 3d, 1877, by the U. S. marshal, and on same day, month, and year served a copy of within motion on George R. Decan and Jane W. Decan, named herein, by handing the same to George R. Decan.

New Orleans, May 4th, 1877.

(Signed) S. W. REED,
Dy U. S. Marshal.

Decree.—Filed May 17th, 1877.

R. M. PETERSEN ET ALS.
vs. } 8155.
THE SHIP STERLING AND TOW-BOAT EQUATOR.

This cause came on to be heard upon the record from the district court, as certified by the clerk thereof under the seal of the court,
412 and was argued by the proctors for the respective parties; and the court being fully advised in the premises now finds the following facts:

1. That about 12 o'clock noon of the 15th day of March, 1874, the Norwegian bark Sif, of which the libellants were owners, drawing fourteen feet and three-quarters of a foot of water, attempted to cross the bar at the mouth of the Southwest Pass of the Mississippi River, and while so attempting ran aground thereon and lay athwart the channel, thereby partly obstructing it, her bow pointing westwardly.

2. While thus aground the tow-boat' Lone Star and Philip hitched on to the stern of the Sif with a hawser and tried to pull her off the bar by towing her stern up-stream.

3. That while the Sif was still aground on the bar and the said tow-boats Lone Star and Philip were working to pull her off, but had not yet succeeded in so doing, the ship Sterling, one of the defend-
413 ants, drawing twelve feet and one-half a foot of water, which had been lying at anchor outside of the bar waiting to cross it, weighed anchor, and in tow of the tow-boat Equator, the other defendant, drawing twelve feet of water, attempted to cross the bar by passing near to and around the stern of the Sif.

4th. That the tow-boat Equator succeeded in passing the bark Sif without colliding with her, still having the ship Sterling in tow, but that the bow of the ship Sterling, she being still in tow by the tow boat Equator, ran into the Sif on her port side, nearly at right angles, thereby causing considerable damage to the Sif.

5. That the attempt of the ship Sterling and of the tow-boat Equator, the latter having the former in tow, to cross the bar and pass under the stern of the Sif, while the latter was lying aground on the bar, was reckless, inconsiderate, and hazardous, and due care and seamanship required that the attempt should not be made.

414 That the damage to the Sif from the said collision was caused solely by the reckless, inconsiderate, and hazardous conduct of those in charge of the ship Sterling and the tow-boat Equator in mak-

ing the attempt to cross the bar while the Sif was lying aground thereon, partly obstructing the channel.

7. That the damage sustained by the ship Sif, in consequence of said collision, was $8,265.35.

And, as a conclusion of law from the foregoing facts, the court finds that the said ship Sterling and the said tow-boat Equator, are liable in solido to the libellants, the owners of the bark Sif, for the said sum of $8,265.35, the damages aforesaid, with interest at five per cent. from judicial demand.

It is therefore ordered, adjudged, and decreed that the ship Sterling and the tow-boat Equator be condemned in solido to pay the libellants, R. M. Petersen and others, the sum of eighty-two hundred and sixty-five $\frac{35}{100}$ dollars damages, with five per cent. interest from judicial
415 demand until paid, and costs in both courts.

It is further ordered that a fee of $250.00 be allowed Commissioner K. Loew for his services, and that the same be taxed as costs.

And considering that the said ship Sterling and said tow-boat Equator were both released from seizure and restored to their respective owners, upon furnishing bond conditioned as the law directs, it is further ordered and decreed that E. and A. Sewell and others, owners of the ship Sterling, by J. G. Baker, master and lawful bailee, as principals, and George R. Decan and Mrs. Jane W. Decan, the said George R. Decan as one of the heirs, and the said Jane W. Decan as widow in community, and as natural tutrix of William R. Decan, Jennie J. Decan, and Mary U. Decan, minor children of Robert R. Decan, each of said widow and heirs for their virile share, they being the other heirs of said Robert R. Decan, who during his lifetime had signed said bond as one of the sureties, and to which proceedings the said
416 George R. Decan and Jane W. Decan, personally and as tutrix had been made parties, and Jas. E. Reade, also surety on the release bond, and S. and J. M. Flanagan, owners of the tow-boat Equator, as principals, and Edw'd A. Yorke, as surety on the release bond, be condemned in solido to pay the foregoing judgment, with costs, as aforesaid.

(Signed) W. B. WOODS, *Judge.*

Exception to the finding of the court.—Filed May 19th, 1877.

U. S. circuit court.

R. M. PETERSEN ET ALS.
vs.
THE SHIP STERLING & TOW-BOAT EQUATOR. } No. 8155.

Be it remembered that on the 17th May, 1877, his honor, W. B. Woods, judge of this hon. court, sitting at New Orleans, decided the above cause, and claimants and def'ts in the said cause to the findings of the facts as set forth by his honor in his decree excepts to the same as follows:

417 1st. The said findings (No. 1) it is stated "that about 12 o'clock noon of the 15th day of March, 1874, the Norwegian bark Sif, of which libellants were owners, drawing 14¾ feet water, attempted to cross the bar at the mouth of the SW. Pass of the Mississippi River, and whilst so attempting ran aground thereon, and lay athwart the channel, thereby partly obstructing it, her bow pointing westward."

This statement of fact by the court is excepted to on the ground that the court erred in stating that the Sif lay athwart the channel, thereby partly obstructing it.

2d. In said findings (No. 3) it is stated "that the Sif was still aground on the bar, and the tow-boat' Philip and Lone Star were working to pull her off, but had not yet succeeded in so doing; the ship Sterling, one of the defendants, drawing 12½ feet water, which had been lying at anchor outside of the bar, waiting to cross it, weighed anchor, and in tow of the tug-boat Equator, drawing 12 feet, attempted to cross
418 the bar by passing near to and around the stern of the Sif." This finding of the court is excepted to on the ground that the court erred in stating that the Equator attempted to pass around the stern of the Sif, whereas when the said Sterling and Equator came on the bar the Sif was not in the channel, and there was no necessity to pass around her, as the channel was 80 feet wide, and the Sif was a safe distance to the westward; in support of this the evidence already cited is referred to. Turly, a witness on the Equator says, "the channel was wide enough for a ship and two boats to come out, and some parts another vessel could come in on either side;" and the evidence already cited shows the Sif was out to the westward of the channel.

3d. In said finding (No. 4) it is stated "that the Equator succeeded in passing the bark Sif without colliding with her, still having the ship Sterling in tow, but that the bow of the ship Sterling, she being
419 still in tow by the tow-boat Equator, ran into the Sif on the port side, nearly at right angles, thereby causing considerable damage to the Sif." This finding of the court is excepted to on the ground that the Sterling was cut loose from the Equator several minutes before the collision, and that at the time the collision happened the Sterling was aground on the east side of the channel, and that the Sif moved upon the Sterling by reason of the Sif's hawser breaking, thereby causing the Sif to float with the current across the bows of the Sterling.

Woolfley says "the Sterling was hard aground at the time of the collision; that this place might have been 3 or 4 lengths of the ship from the place where the Sif lay aground;" again, he says at the time of the collision the hawser of the Sif had parted; again, "the Equator's hawser was cut as much as four minutes before the collision, and that the object of cutting the Equator's hawser was to stop the headway of the vessel, to try to avoid a collision, and the ship sheered to the east."

420 Dohan, a witness on the Sterling, says "the Sif moved slowly at first, but came faster when she got into deeper water, the current being the cause of her coming down across our bow. The hawser of the Sterling was cut three minutes before the collision, and the hawser of the Sif was gone before the collision."

4. In said finding (No. 5) it is stated "that the attempt of the ship Sterling and the tow-boat Equator, the latter having the former in tow, to cross the bar and pass under the stern of the Sif, while the latter was lying aground on the bar, was reckless, inconsiderate, and hazardous, and a due care and good seamanship required that the attempt should not be made." To this finding we except on the ground that the facts above cited from the witness above shows that the Sif lay to the westward, and that there was plenty of room to pass. Woolfley testifies "a ship passed the Sif lying aground." Clements, witness on the Equator, in answer to the question, "Did you see any ves-
421 sel pass her?" i. e., the Sif lying aground. Ans. "Yes; we took

out a tow that morning, and the Rochester (another tow-boat) took down a schooner. I think the L
testimony is corroborated by a number of other witnesses.

5th. In said findings it is stated (No. 6) "that the damages to the Sif, from said collision was caused solely by the reckless, inconsiderate, and hazardous conduct of those in charge of the ship Sterling and the tow-boat Equator in making the attempt to cross the bar while the Sif was lying aground thereon and partly obstructing the channel." This finding is excepted to on the ground that the court erred in stating that Sif lay aground, partly obstructing the channel, when the Sterling and Equator attempted to pass the bar. The evidence of the witness already cited, shows a different state of facts. The Sif lay hard aground out of the channel until the Equator came nearly abreast of her stern, when she began to move.

Captain Warren, witness for claimant, says, in answer to the
422 question, "Where was you when the Sif commenced to move?"

"Coming up pretty near her the bows of the boat (Equator) was abreast of the bark's stern. As soon as I saw her (Sif) moving astern I sung out to cut the hawser, and hard aport the ship's helm. * * This was from 3 to 5 minutes before the collision took place. The hawser of the Sif was cut or parted before the collision about two or three minutes."

6. That the court erred in allowing the item for demurrage, as set forth in the commissioner's report, amounting to $1,250, as a portion of the damages against defendants; that said allowance is contrary to the evidence and not warranted in law.

The witness for claimant, Dohan, pilot of the Sterling; Capt. Baker, of the Sterling; Wyman, mate of the Sterling; Capt. Warren, of the Equator; Woolfley, Clements, and Turly, of the Equator; and Capt. Caldwell, of the Philip, corroborate the testimony above adduced.

And to the findings and rulings hereinbefore stated the de-
423 fendants and *documents*, by their proctor, tender this their bill of exceptions for the signature of the court, that the same may be duly certified to the Supreme Court of the United States.

(Endorsed): Refused.
(Signed) W. B. WOODS.

Motion for a new trial.—Filed May 19th, 1877.

U. S. circuit court.

R. M. PETERSEN & ALS.
vs.
THE SHIP STERLING AND THE TOW-BOAT Equator. } No. 8155.

On motion of E. D. Craig, proctor for defendants, and on suggesting to the court there is error in the judgment rendered May 17th, 1877, in favor of libellants; that the same is contrary to the law and the evidence for the reasons hereinafter set forth.

That in the findings of the facts, as set forth in the decree, upon which said judgment is based the court erred in said statement of findings of the facts.

1st. That the court erred in stating that "the Sif layathwart of the channel, thereby obstructing it, which the evidence of Dohan

424 Clements, Wyman, Turley, Warren, Caldwell, and Woolfley, witnesses for defendants, shew that the bark Sif was not aground in the channel at the time the Sterling took the bar, but was out of the channel to the westward, with the channel open and free, with vessels passing and repassing.

2. That the court erred wherein it is stated by the court, in said findings of facts, "that the Sterling, still in tow of the Equator, ran into the Sif," whereas the evidence of the witnesses already named show that just previous to the collision the Sterling grounded on the east side of the channel; that 5 minutes previous to the collision the hawser of the Sterling was cut, and that the Sif moved from the west side to the east of the channel; that while being held up-stream by the towboats Lone Star and Philip her hawser broke, and that she moved across the bows of the grounded Sterling.

3. That the court being in error as to the findings of facts and erred in charging the defts' with a want of good seamanship, and with reck-
425 lessness and hazardous conduct; that the facts show when the Sif began to move, which was when the Sterling and Equator were coming up the channel and it being impossible for them to retreat, the skill for them in management thereof was shown in the promptness with which the hawser of the Sterling was cut and her helm put hard aport.

4. That the misfortunes of the Sif was owing to the failure of her hawser, as the evidence shows that if she had been kept up-stream the damages would have been avoided.

5. That the facts as developed in the evidence shew that when the Sif was lying aground she was out of the channel, with 80 feet or more width of channel all free, and this while the Sterling was coming in on the bar in tow of the Equator; that when the Equator got nearly abreast of the Sif in the middle of the channel and grounded on the east mud-lump at a safe distance from the Sif that the Sif in the mean time was being held up-stream by the Lone Star and Philip,
426 and would have avoided the collision if she had been still held up-stream. That the Sif's hawser parted while being held up-stream, and, left to the current, floated across the bows of the Sterling, and that the conclusion of law to be derived from the facts exonerates the Sterling and Equator from all blame.

6th. That the amount of damages sustained, as set forth in the commissioner's report, is excessive. The cost of repairing the vessel is fixed at by Maxwell, whose testimony was disregarded, at a sum of $800 less than that fixed by libellant, whose testimony was allowed to take precedence over that of Maxwell, a disinterested witness; the sum of $1.00 bale was allowed for inspecting cotton which was not damaged; that the allowance in said report for damages is unwarranted in fact and law, and a further allowance of $250 allowed the commissioner for his report, all of which is excepted to on the filing of the report as excessive.

7th. That the judgment is erroneous, as it allows interest from judicial demand, the in this cause being unliquidated at the time
427 of the institution of the suit, and not as entered, until judgment by the court; and, furthermore, no judgment for interest is allowed in the district court, and as there is no appeal by libellants, who were satisfied with said decision, none can be allowed in this court.

8th. That the heirs of Decan who died since the appeal has been taken in this case have been condemned in solido with the other defendants, whereas, if liable at all, they can be held only for their proportion of the virile share of the estate of the said Decan.

It is therefore ordered that libellants do show cause, on 26th May, 1877, why a new trial shall not be granted in this cause.

Submission of brief in support of a rehearing.—Extract from minutes of May 26th, 1877.

R. M. PETERSEN
vs.
SHIP STERLING & TOW-BOAT EQUATOR.

This day appeared Emmet D. Craig, proctor for tow-boat Equator and submitted brief in support of the application for a rehearing.

428 *Order: New trial granted.—Extract from minutes of June 25th, 1877.*

R. M. PETERSON ET AL.
vs.
SHIP STERLING & AL. } No. 8155.

On due consideration of this cause, it is ordered that the decree heretofore rendered be set aside, and that a rehearing be granted in the premises.

Affidavit for commission.—Filed January 7th, 1878.

R. M. PETERSEN ET ALS.
vs.
THE SHIP STERLING & TOW-BOAT EQUATOR. } No. 8155.

E. D. Craig, being sworn, says that he is proctor for claimants, who are absent from the State of Louisiana; reside in the States of Pennsylvania and Maine; and that Charles Germain is a material witness in this case; that he is at present at Meridian, Miss., a distance of over 100 miles from the city of New Orleans, and without the juris-
429 diction of this hon. court, and that a commission is necessary to take his testimony; that said Germain's testimony since the granting of the new trial in this cause has been discovered by affiant and is material to the matters at issue; that claimants herein *need* [*used] all due diligence to obtain said witness' testimony; that affiant is informed said Germian is detained by serious illness of his family, and has been detained from coming to this city; that this application for a commission to take said witness' testimony is not made for the purpose of delay, and that said testimony can be procured within days.

(Signed) E. D. CRAIG.

Sworn to and subscribed before me Jan'y 7, 1878.

(Signed) K. LOEW, *U. S. C.*

Motion and order for commission.—Extract from minutes of January 7th, 1878.

R. M. PETERSON & AL.
vs.
430 SHIP STERLING AND TOW-BOAT EQUATOR. } No. 8155.

On motion of E. D. Craig, proctor for claimant, and on filing his affi-

*In pencil in original.

davit showing the materiality of Chas. Germain as a witness in the above cause, and that said witness is at present in the State of Mississippi, more than 100 miles from this city, and without the jurisdiction of this honorable court, and on further showing that said witness' testimony has been discovered since the new trial was granted in this case, and for the reasons set forth in the accompanying affidavit:

It is ordered that a commission do issue to any U. S. commissioner or other person authorized by law of the U. S., at or near Meridian, Miss., to take the testimony of said Germain, and that a copy of said accompanying interrogatories be served on libellants' proctor for the purpose of crossing the same within three days after the service thereof, and that the limit of this commission be fixed by his honor Judge Woods, on his arrival.

431 *Interrogatories.—Filed January 7th*, 1878.

R. M. PETERSON ET ALS.
vs.
SHIP STERLING AND TOW-BOAT EQUATOR. } No. 8155. U. S. C. C.

Interrogatories propounded to Chas. Germain, residing at or near Meridian, Miss., *or* part of claimants, to be taken before any U. S. comm'r or other person authorized to take testimony by the laws of the U. S.

1st. Your age, residence, and occupation?

2d. What was your occupation on the 15th March, 1874, and where were you at the time?

3d. If you state you was near the passes of the Miss. River, state whether or not you was in sight of the ship Sterling and the Norwegian bark Sif.

4th. It is alleged that there was a collision between the American ship Sterling and the Norwegian bark Sif on 15th March, 1874; how far were you from the scene of that collision and what do you *do* know from your own observation relating thereto? Please state it.

432 5th. The ship Sterling was said to have been in tow of the Equator, and the Sif aground in tow of the Philip and Lone Star; state the position of the Sif at the time when the Sterling weighed anchor and started in over the bar.

6th. Did or did not the Philip and Lone Star get her in motion and cause the Sif to move while the Sterling was coming in? State particulars.

7th. On which side of the channel was the Sif at the time she began to move under the combined power of the Philip and Lone Star, and where did she move to?

8th. What was the width of the channel for passage of vessels near where the Sif lay before she was moved by the Lone Star and Philip?

9. Where was the Sterling and tow-boat Equator when the Sif began to move on the eastern or western side of the channel? State her position.

433 10. If you say on the western side of the channel, state in what direction as to the channel and current the Sif moved.

11th. On which side of the channel did the collision take place, and in what direction and how far from the place where the Sif was started from her grounding by the Lone Star and Philip?

12th. What is the direction of the current at the place; in what direc-

tion was the Sif pointing and in what direction was the Sterling pointing when the collision took place?

13. Are you well acquainted with the customs and regulations in regard to tows coming in and out going; if so, state whether, in your judgment, it was the duty of the Lone Star and Philip to have remained quiet until the Sterling and Equator had passed, and which was proper for the Equator and Sterling to have done under the circumstances? State particularly your views on this subject, and give your reasons for so doing.

434 14. Where does the fault of the collision lie, in your judgment? Give your reasons for the same.

15th. If you know anything further in regard to this collision than already stated, state the same as if fully and specially interrogated.

(Signed) E. D. CRAIG,
Proctor for Libellants.

X-interrogatories waived. All legal exceptions reserved.
N. O., 11 January, 1878.
(Signed) HORNOR & BENEDICT,
Proctors.

Deposition of Chas. Germain.—Filed January 17th, 1878.

United States circuit court, district of Louisiana.

R. M. PETERSEN
vs.
SHIP STERLING AND TOW-BOAT EQUATOR.

Testimony taken on behalf of claimant before Francis A. Woolfley, United States commissioner, this 15th day of January, 1878.

435 Present, E. D. Craig, es., for claimant; Joseph P. Hornor, esq., for libellant.

CHARLES GERMAIN, sworn for the claimant, says:

By Mr. CRAIG:

Q. State your residence and occupation.

A. My residence is here, but not at this time; I have just come down from the country. I reside here when I am here.

Q. You have a double residence?

A. Yes, sir; I live on board the boat and I live up there a part of the time.

Q. Are you captain of a boat?

A. Yes, sir; captain of the tow-boat Rochester.

Q. What is your age?

A. To the best of my knowledge I was fifty-six last summer.

Q. How long have you been engaged in the business of tow-boating on the Mississippi River?

A. I have been engaged since I came down here with the Rochester; I should think about eight years.

Q. How long have you been engaged in seafaring matters?

A. About thirty years.

436 Q. It is alleged in this suit that on the 15th March, 1874, near the passes of the Mississippi River, I think Southwest Pass, that

there was a collision between the Norwegian bark Sif and the American ship Sterling; state whether you were present there at the time?

A. I saw the collision.

Q. How near were you?

A. I was within a mile—a little less than a mile.

Q. In what capacity where you at the time?

A. I was towing in a three-masted schooner.

Q. Were you in command of the Rochester at the time?

A. Yes, sir.

Q. And on board of the Rochester?

A. Yes, sir.

Q. You were looking on at the time the collision occurred?

A. I was watching it with the glasses.

Q. You were in a position where you could readily see them?

A. Yes, sir. I could see them without the glasses, but I had
437 the glasses looking at them all the same.

Q. What vessel was towing the ship Sterling at the time?

A. The Equator.

Q. Who were towing the bark Sif?

A. The Lone Star and Philip.

Q. State what you know about it and what you saw.

A. This bark Sif when I came in with the three-masted schooner was ashore to the eastward.

Q. What time in the morning was that?

A. I suppose eleven o'clock, as near as I can calculate; it was near the middle of the day.

Q. What then?

A. The Philip was pulling on her, and he had her head pointing round nearly west-southwest. I was coming up with a three-masted schooner, and was approaching up close to her, and I told my pilot the probability would be that he would pull the bark up just in time to pick us up, and I told him to starboard his wheel and go to the westward. When we hauled to starboard I went aft and told the schooner
438 "hard astarboard;" then the Philip came down to us and stopped and back for to clear me—that is, the Philip did. The bark came down with the weight she had on her, and came to the outside of us, so that a spar of her came right betwixt me and my schooner, six feet on the stern. I was away out a long ways of the channel. Then I changed the schooner and she sheered out of the way.

Q. Did the vessel or not go aground then?

A. No, sir; she kept going until she went clear across the channel about a length westward and pitched up half her length on west buoy, and she lay there still.

Q. Then you passed on yourself?

A. I was coming up the river then.

Q. Where was the Sterling at that time?

A. She was outside the bar at that time.

Q. Then what; did you see the Sterling afterwards coming up the river while you were in that position?

439 A. When I looked I looked with the glass, and I saw the Lone Star on the lee side of this bark, and the Philip did not appear to be doing anything at that time.

Q. The ship Sterling?

A. I will tell you my story: The Philip came up and took the hawser of the Sif and pulled up the river, making about a northeast course. The true course of the channel is north-northeast. Then the Lone Star

came and took hold of her and at that time that ship was coming in with the Equator in tow, that is, the Sterling, and she struck the bar coming in, and when she got up two of her lengths the further bark began to move to the eastward. By they pulling at her she moved to the eastward, and they came close together. Then I could see the ship Sterling take a sheer off to the eastward, and the Equator also sheered off to the eastward, and the Equator opened out by the bark, and I saw
440 the ship sheering to the eastward. I could see her masts open and turning to the right. That was the proper way. Then I kept watching them until this bark went right across the channel, stern foremost, and as she went across her stern dropped until she got exactly square across the channel of the river. She went in that direction until she covered the ship in front of us. She looked to me that she went over across there, or struck the ship. I was not sure—I thought she might go by. I could not state exactly at that distance whether it was a collision or not. It was smokey. I saw the masts plain enough, and examined the movement. That is all I saw.

Q. You state that after the bark Sif passed from the east to the west side she grounded. How far was that place where she grounded to the place where the collision took place?

A. I suppose it was over three hundred feet.

Q. In what direction was it to the points of the compass from
441 where the Sif lay aground to the place where the collision occurred?

A. I should suppose it would be about north-northwest.

Q. Do you mean the Sif, from the place she collided?

A. I mean from the place where the ship was ashore to the place where the Sif was ashore before that she started.

Q. The collision was in a sort of southerly or easterly direction from the place where she first lay; that is, where the collision took place, on the east side of the river?

A. Yes, sir.

Q. Rather to the south of where the Sif lay?

A. Yes, sir.

Q. She was a little to the northwest of where the collision took place before she moved?

A. Yes, sir; about south-southeast, to draw a straight line. When the Sif started to go astern was not so head up to that point as to make their bearings. That is the way I looked at it, because the ship sheered to the eastward and went ahead. Then I could not perceive
442 whether she went on any way; but I saw the bark going astern to the eastward until she was across the ship's bow.

Q. What was the direction of the current at that place?

A. The current there runs about south-southwest.

Q. In what direction was the Sif pointing, she lying aground on the west side of the channel, previous to being moved off?

A. To the west, a little southwesterly.

Q. How was the Sterling pointing at the moment of the collision or just before?

A. I should judge the Sterling headed northeast, or a little east of northeast, probably.

Q. In your judgment, what would be the duty of the Lone Star and Philip under the circumstances?

A. Well, if they had headed up the river—the Lone Star was headed up and the Philip had stopped her engine and lay still until the other

boat got by—that would have been the proper way and the way that I should have done.

443 Q. Do you know whether the hawser of the Sif parted or broke?

A. I cannot tell you anything about that; I was too far off.

Q. Did you think that if the hawser of the Sif had held the boats she could have headed up the stream and got clear of the Sterling?

A. Yes, sir; it was a small bark. The two boats had her going fine until the hawser parted. It was a great misfortune the hawser parted.

Q. I want to ask you in regard to the difference between a manilla hawser and a hemp hawser when there is a pressure on them?

A. A manilla hawser is considered the best hawser.

Q. Why?

A. It is more to be depended on. The other, if it gets a short nip, it will break. It will not take the strain, but the others do; that is the difference.

Q. A hemp hawser ordinarily when you get a strain on it, there being no stretch on the inside cords, the outside cords are liable to

444 break. One after another they will break; but a manilla hawser, when the outside has more pressure on it than the inside strands, it will stretch so as to put a portion of the strain on the inside strands?

A. Yes, sir.

Q. Under the circumstances, in your judgment, was it the duty of the Sterling and the Equator to have laid outside until the Sif got off or not?

(Mr. Hornor objects to the opinion of the witness.)

A. No, sir; we never pay attention to vessels ashore. If a vessel likes to go in it can go, whatever or not matter what is on the bar.

Q. Was it prudent on the part of the Sterling and the Equator to attempt the trip?

A. Yes, sir; the bar was perfectly clear.

Q. Where was the fault, in your judgment, as to the collision?

(Mr. Hornor objects.)

A. I consider the fault lying in the bark and the tow-boats, as an error of judgment.

445 Cross-examined by Mr. HORNOR:

Q. You spoke of your residence. Where do you hold your citizenship?

A. In New Orleans, Louisiana. I have got my papers out here, but some call me a Missi'pp'ian and some a Louisianian. I don't know what I am hardly, but consider myself a citizen of Louisiana.

Q. You say you saw this collision through your glasses?

A. Yes, sir.

Q. Did you see the Sif's masts fall when the collison took place?

A. Yes, sir.

Q. You saw it was damaged?

A. Yes, sir.

Q. You say you saw the Sif move prior to the collision?

A. Yes, sir; I saw the Sif move prior to the collision. I saw the Sif go astern clear across eastward until she struck the ship.

Q. Was it going with considerable force?

A. Well, she went over pretty quick.

Q. Did she go rapidly or slowly?

446 A. Pretty quick, I considered it.

Q. Could you at that moment if the ship Sterling was moving or not; whether she was moving or aground?

A. I cannot say for certain.

Q. What do you think?

A. By the looks of her I think she was aground; because I saw her go to the eastward, and when she got in that position she did not go any further. I did not see her move any more. The Equator done the same thing, and went to the eastward.

Q. She came through?

A. Yes, sir.

Q. But you think the ship Sterling grounded before the collision took place?

A. Yes, sir.

Q. You have spoken of a three-masted schooner that you carried along. You were with her at the time you saw all this?

A. Yes, sir.

Q. You were about a mile off?

A. Yes, sir.

447 Q. Can you state how long it was from the time you started in with the three-masted schooner until the collision took place?

A. I suppose about an hour—between one and two hours.

Q. How much water was your three-masted schooner drawing?

A. I think about nine feet.

Q. How much was the Rochester drawing?

A. I think seven feet.

Q. Do you know what the bark Sif was doing on the bar with these tow-boats, the Philip and the Lone Star; what were they aiming at?

A. I don't know.

Q. Do you not know or not that they were trying to take her to sea?

A. Yes, sir; but they made a very poor fist of it. I never seen anything like it before or since.

Q. But were they trying to take her over the bar?

A. Yes, sir.

Q. Can you tell me how it comes that you were not sworn as a witness in this case before?

A. No, sir.

Q. You cannot?

448 A. No, sir.

Q. You don't know?

A. All I do know I will tell you. Mr. Craig met me on the street about three or four months ago and he was telling me about this case of the Lone Star and Philip, and I just told him that Captain Warren was not to blame for that collision.

Q. That was the first time you ever told anybody?

A. Yes, sir.

Q. Nobody else knew about it?

A. No, sir.

Q. A commission was taken out to take your testimony in Meridian?

A. Yes, sir.

Q. Was it taken there?

A. No, sir.

Q. What did you come down for?

A. I came down to work.

Q. Who paid your fare?

A. I can pay my own way.

Q. Did not somebody pay your fare?
A. No, sir.
Q. Did anybody pay your fare?
A. No, sir.

Q. You never told Captain Yorke, or anybody, that you saw
449 this collision until three or four months ago?

A. I told Mr. Craig.
Q. But you say it was three or four months ago?
A. Yes, sir.
A. It was not a year ago?
A. No, sir.
Q. Did you not know that this case had been in court all the time?
A. No, sir; I did not hear a word about it.

Submission of cause.—Extract from minutes of January 18th, 1878.

R. M. PETERSEN
vs. } 8155.
SHIP STERLING, &C.

This cause came on to be heard upon the transcript of the record from the district court of the U. S. and the evidence this day filed, and having been argued by E. D. Craig for appellants, and Hornor & Benedict for appellees, the court took time to consider.

450 *Decree.—Filed March 12th, 1879.*

R. M. PETERSEN ET ALS.
vs.
THE SHIP STERLING AND TOW-BOAT EQUATOR.

This cause came on to be heard upon the record from the district court, as certified by the clerk thereof, under the seal of the court, and was argued by the proctors for the respective parties, and the court being fully advised in the premises, now finds the following facts:

1. That about 12 o'clock noon of the 15th of March, 1874, the Norwegian bark Sif, of which the libellants were owners, drawing fourteen feet and three-quarters of a foot of water, attempted to cross the bar at the mouth of the Southwest Pass of the Mississippi River, and while so attempting ran aground there, and lay athwart the channel, thereby partly obstructing it, her bow pointing westwardly.

2d. While thus aground, the tow-boat' Lone Star and Philip
451 hitched on to the stern of the Sif with a hawser, and tried to pull her off the bar by towing her stern up-stream.

3d. That while the Sif was still aground on the bar, and the said tow-boats Lone Star and Philip were working to pull her off, but had not yet succeeded in so doing, the ship Sterling, one of the defendants, drawing twelve feet and one-half foot of water, which had been lying at anchor outside the bar, waiting to cross it, weighed anchor, and in tow of the tow-boat Equator, the other defendant, drawing twelve feet of water, attempted to cross the bar by passing near to and around the stern of the Sif.

4. That the tow-boat Equator succeeded in passing the bark Sif without colliding with her, still having the ship Sterling in tow, but that the bow of the ship Sterling, she being still in tow of the tow-boat

Equator, ran into the Sif on her port side, nearly at right angles, thereby causing considerable damage to the Sif.

5. That the attempt of the ship Sterling and of the tow-boat
452 Equator, the latter having the former in tow to cross the bar, and pass under the stern of the Sif while the latter was lying aground on the bar was reckless, inconsiderate and hazardous, and due care and seamanship required that the attempt should not be made.

6th. That the damage to the Sif from the said collision was caused solely by the reckless, inconsiderate and hazardous conduct of those in charge of the ship Sterling and the tow-boat Equator in making the attempt to cross the bar, while the Sif was lying aground thereon, partly obstructing the channel.

7. That the damage sustained by the ship Sif in consequence of said collision was $8,265.35.

And as a conclusion of law from the foregoing facts the court finds that the said ship Sterling and the said tow-boat Equator are liable in solido to the libellants, the owners of the bark Sif for the said sum of $8,265.25 the damages aforesaid with interest at five per cent. from judicial demand.

453 It is, therefore, ordered, adjudged and decreed that the ship Sterling, and the tow-boat Equator be condemned in solido to pay the libellants, R. M. Petersen and others, the sum of eighty-two hundred and sixty-five $\frac{35}{100}$ dollars damages, with five per cent. interest from judicial dem and until paid, and costs in both courts.

It is further ordered that a fee of $250 be allowed to Commissioner K. Loew for his services, and that the same be taxed as costs.

And considering that the said ship Sterling and the said tow-boat Equator were both released from seizure and restored to their respective owners, upon furnishing bond, conditioned as the law directs, it is further ordered and decreed that E. & A. Sewall and others, owners of the ship Sterling, by J. G. Baker, master, and their lawful bailee, as principals, and George R. Decan and Mrs. Jane W. Decan, the said George R. Decan as one of the heirs, and the said Jane W. De-
454 can as widow in community and a natural tutrix of William R. Decan, Jennie J. Decan, and Mary U. Decan, minor children of Robert R. Decan, each of said widow and heirs for their virile, they being the other heirs of said Robert R. Decan, who, during his lifetime, had signed said bond as one of the sureties, and to which proceedings the said George R. Decan and Jane W. Decan, personally and as tutrix, had been made parties, and Jas. E. Reade, also surety on the release bond, and said J. M. Flanagan, owners of the tow-boat Equator, as principals, and Edward A. Yorke, as surety on the release bond, be condemned in solido to pay the foregoing judgment, with costs, as aforesaid.

(Signed) W. B. WOODS, *Judge.*

Motion for appeal.—Filed March 14th, 1879.

U. S. circuit court, district of La.

R. M. PETERSEN ET ALS.
vs.
THE SHIP STERLING & TOW-BOAT EQUATOR. } No.

455 On motion of E. D. Craig, proctor for the ship Sterling, E. A. Sewall and others, owners thereof, J. G. Baker, master, principal,

and Jos. E. Reade, and the heirs of R. R. Decan, deceased, to wit, Mrs. Jane W. Decan, his widow in community, tutrix of their minor children, and George R. Decan, and the minor children of said R. R. Decan, and said Mrs. Jane W. Decan, Wm. R. Decan, Jennie J. Decan, and Mary U. Decan, and for the tow-boat Equator, S. and J. M. Flannagan and Edward A. Yorke, surety, and on showing to the court that the above cause was instituted in the U. S. district court, dist. of La., in a cause of admiralty jurisdiction, civil and maritime, and therein a judgment was entered against the aforesaid owners of the Sterling and her master, J. G. Baker, and against R. R. Decan, now deceased, and Joseph E. Reade, as sureties on the release bond of said Sterling, and against S. and J. M. Flannagan and Edward A. Yorke, principal and surety on the release bond of said *release bond of said of said*
456 Equator, and that said judgment was entered against them in solido; that said cause was moved from the said U. S. district court by appeal to this hon. court, when the same was decided and made final on March 12, 1879, during the present term of this hon. court, and that the amount in dispute is over five thousand dollars, and that a final judgment in solido has been rendered against the aforesaid E. A. Sewall and others, J. G. Baker, Jos. E. Reade, and the heirs of R. R. Decan aforesaid, for their virile portion, and against S. and J. M. Flanagan and Edward A. Yorke, and which they are advised there is error to their prejudice, from which they cannot be relieved except by an appeal to the Supreme Court of the U. S.; and on further showing that the aforesaid movers hereinabove named desire to appeal suspensively from the judgment against them respectively to the next term of the U. S. Supreme Court, to be held at Washington City, Dist. of Columbia, commencing in October next, and on showing that
457 the claimants and owners herein of the Sterling and tow-boat Equator have given a stipulation for their respective vessels, with good and solvent sureties, in larger sums than is necessary to cover libellants' demand against said Sterling and Equator, the owners and defendants herein, on delivery to them, the said ship Sterling and tow-boat Equator, when attached by process issued from the aforesaid U. S. district court, to abide by and pay the amount awarded by the final decree by said district court or the appellate court, and said stipulation are still in full force and effect, and the sureties thereof good and solvent, and able to pay any decree or judgment that may be rendered in said suit on appeal, and no other bond need be given on this appeal than costs of suit and just damages for delay, and interest on appeal: It is therefore ordered by the court that the movers herein, consisting of the aforesaid parties, be allowed an appeal from the final decree rendered in this court in this case to the
458 Supreme Court of the U. S., to operate as a supersedeas against said judgment, and returnable to the Supreme Court of the United States, at Washington City, D. C., on or before the first Monday in October, 1879, on the first day of the next term thereof, and that bond, with good and solvent surety, be filed within sixty days, in the sum of dollars.

Bond for appeal.—Filed March 15th, 1879.

UNITED STATES OF AMERICA:

Know all men by these presents that we, the firm of S. and J. M. Flanagan, composed of Stephen Flanagan and James M. Flanagan and Edward A. Yorke, as principals, and John D. Hamilton, as surety, are

held and firmly bound, jointly and severally, unto R. M. Peterson and others, in the sum of two thousand dollars, lawful money of the United States of America, to be paid to the said Petersen and others, their heirs, executors, administrators, and assigns, for which payment well and truly to be made we bind ourselves, and each of us by him-
459 self, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the fifteenth day of March, in the year of our Lord eighteen hundred and seventy-nine.

Whereas the said S. & J. M. Flanagan and Edward A. Yorke, having heretofore, to wit, on the 14th day of March, 1879, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 12th day of March, 1879, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of R. M. Petersen et als. vs. The Ship Sterling and Tug-boat Equator, No. 8155 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden S. and J. M. Flanagan and Edward A. Yorke shall prosecute said appeal to effect, and shall answer all damages and costs if they shall be void; otherwise to remain in full force and virtue.

(Signed) S. & J. M. FLANAGAN, [L. S.]
Per EDW. A. YORKE.

460 (Signed) EDW. A. YORKE. [L. S.]
Do. JNO. D. HAMILTON. [L. S.]

Signed, seal', and delivered in the presence of—
(Signed) S. C. MANNING,
Do. HY. BIERY,
Do. E. D. CRAIG, *Att'y.*

Security approved.
(Signed) HORNER & BENEDICT, *Proctors.*

Bond approved.
(Signed) EDWARD C. BILLINGS, *Judge.*

461 *Bond for appeal.—Filed April 10th*, 1879.

UNITED STATES OF AMERICA:

Know all men by these presents that we, Mrs. Jane W. Decan, surviving wife of the late R. R. Decan, dec'd, and widow in community and the legal representative and administratrix of the succession of said R. R. Decan, and tutrix of his and her minor children, to wit, Jennie J. Decan and Minnie U. Decan, in her individual and representative capacity, and W. B. Decan, as principals, and Horace F. Hardy, as surety, are held and firmly bound, jointly and severally, unto R. M. Petersen et als. in the sum of ten thousand dollars, lawful money of the United States of America, to be paid to the said R. M. Petersen et als., heirs, executors, administrators, and assigns, for which payment well and truly to be made we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the 4th day of April, in the year of our Lord eighteen hundred and seventy-nine.

Whereas the said Jane W. Decan, in her individual and rep-
462 resentative capacity, and W. B. Decan having heretofore, to wit, on the 14th day of March, 1879, taken an appeal to the Su-

preme Court of the United States from and to reverse the decree rendered on the 12th day of March, 1879, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of R. M. Peterson et als. vs. The Ship Sterling and Tow-boat Equator, No. 8155 of the docket thereof:

Now, the condition of the above obligation is that if the above-bounden Mrs. Jane W. Dean, individually and as administratrix as aforesaid, and Wm. B. Decan shall prosecute their said appeal to effect, and shall answer all damages and costs if any shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) JANE W. DECAN, [L. S.]
As Adm'x & Tutrix of the Minor Children of R. R. Decan, dec'd, By Her Marriage With Him.

(Signed) JANE W. DECAN. [L. S.]
Do. WM. B. DECAN. [L. S.]
Do. HORACE F. HARDY.

Approved.
463 (Signed) HORNOR & BENEDICT.

Bond approved.
(Signed) EDWARD C. BILLINGS, *Judge.*

APRIL 11, 1879.

Motion and order fixing amount of appeal bond.—Extract from minutes of May 2d, 1879.

R. M. PETERSEN ET AL. *vs.* SHIP STERLING ET AL. } No. 8155.

And now comes E. D. Craig, the proctor of the appellants, E. & A. Sewell et als., the owners of the ship Sterling, and J. G. Baker, master, &c., appellees, moves the court to fix the amount of the appeal bond herein; and thereupon, after hearing counsel, it is ordered by the court that said bond be fixed at $12,000.

Approval of bond.—Extract from minutes of May 5, 1879.

R. M. PETERSEN ET AL. *vs.* SHIP STERLING ET ALS. } No. 8155.

464 This day, in open court, appeared John Baker, Thos. J. Woodward, and Silas Weeks, and, having given to the court satisfactory proof of their sufficiency, they were accepted by the court as sureties on the appeal bond of E. & A. Sewell and others, owners of the ship Sterling, and J. G. Baker, master, &c., each for the sum of four thousand dollars.

Bond for appeal.—Filed May 5th, 1879.

UNITED STATES OF AMERICA:

Know all men by these presents that we, E. and A. Sewell and others,

owners, and J. G. Baker, master, of the ship Sterling, in solido, in the sum of twelve thousand dollars, and John Baker, surety, in the sum of four thousand dollars; Thos. J. Woodward, surety, in the sum of four thousand dollars; Silas Weeks, surety, in the sum of four thousand dollars, are held and firmly bound, jointly and severally, in the sums affixed to our names, unto R. M. Petersen & als., amounting to in the
465 aggregate for the sureties in the sum of twelve thousand dollars, and for the principals in the sum of twelve thousand dollars, lawful money of the United States of America, to be paid to the said R. M. Petersen & als., their heirs, executors, administrators, and assigns, for which payment well and truly to be made we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated the 5th day of May, in the year of our Lord eighteen hundred and seventy-nine.

Whereas the said E. & A. Sewell and others, and J. G. Baker (ship Sterling), having heretofore, to wit, on the 14th day of March, 1879, taken an appeal to the Supreme Court of the United States from and to reverse the decree rendered on the 12th day of March, 1879, by the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, in the suit of R. M. Petersen & als. vs. The Ship Sterling and Steam Tow-boat Equator, No. 8155
466 of the docket thereof: Now, the condition of the above obligation is that if the above-bounden E. and A. Sewell and others, and J. G. Baker (ship Sterling), shall prosecute their said appeal to effect, and shall answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void; otherwise to remain in full force and virtue.

(Signed) E. & A. SEWELL AND OTHERS, AND J. G. BAKER,
Master Ship Sterling.
By E. D. CRAIG, [L. S.]
The Proctor.

(Signed) THOMAS J. WOODWARD. [L. S.]
Do. SILAS WEEKS. [L. S.]
Do. JOHN BAKER. [L. S.]

Bond approved.
(Signed) EDWARD C. BILLINGS, *Judge.*

JUNE 5TH, 1879.

467 UNITED STATES OF AMERICA:

Circuit court of the United States, fifth circuit and district of Louisiana.

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, do hereby certify that the foregoing 466 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had together with all the evidence adduced on the trial of the case of R. M. Petersen et al. versus The Ship Sterling and Tow-boat Equator, No. 8155 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 12th day of August, A. D. 1879.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

I, W. B. Woods, United States judge for the district of Louisiana, do certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 12th day of August, A. D. 1879.

W. B. WOODS, *Judge.*

(Indorsement on cover:) No. 314. The ship Sterling, E. & A. Sewall et al., owners, and The tow-boat Equator, S. & J. M. Flannagan et al., appellants, vs. R. M. Petersen et al. Louisiana C. C. U. S. Filed 11th October, 1879.

OFFICE SUPREME COURT U.S.
FILED
OCT 3 1882
JAMES H. McKENNEY, Clerk

Supreme Court of the United States.

No. 314.

The ship STERLING, E. & A. SEWALL et al., owners, and the tow-boat EQUATOR, S. & J. M. FLANAGAN et al.
Appellants,

vs.

R. M. PETERSEN et al.,
Appellees.

BRIEF FOR APPELLANTS.

J. WARREN COULSTON,
Counsel for Appellants.

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SUPREME COURT OF THE UNITED STATES,
No. 314.

THE SHIP STERLING, E. & A. SEWALL *et al.*, OWNERS, AND THE TOW-BOAT EQUATOR, S. & J. M. FLANAGAN *et al.*, APPELLANTS,

vs.

R. M. PETERSEN *et al.*

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

BRIEF OF ARGUMENT FOR APPELLANTS.

This court having repeatedly held that the finding of facts by the Circuit Court in admiralty cases is conclusive, and having further decided in the case of the Francis Wright at October Term, 1881, that the Act of 16th February, 1875, is constitutional, it would be useless in this cause to again raise any such questions. For these reasons we desire to submit but one question in answer to the point taken by the appellees, that this appeal was taken simply for delay, and that damages as for a frivolous appeal under Section 2 of Rule 23, should be awarded to them. (See appellees' brief, page 4.)

The appeal in this case was perfected on 5th June, 1879, and the record certified on 12th August, 1879. (See Record, page 173.)

At that time the case of the Abbotsford, 98 *U. S.*, 440, had not been published or was not generally known to the profession, and notwithstanding that case appeals were still taken to this court upon the belief that the facts would be reviewed here.

The "Abbotsford" was affirmed in two or more other subsequent cases. It was not, until the case of the Adriatic, decided at October term, 1880, that the court determined (see the *Adriatic*, 103 *U. S.*, 731) that the testimony should not be sent up with the record; and it was not until at October term, 1881, in the case of the Francis Wright, not yet published in the reports of this court, that the Act of 1875 was declared to be constitutional.

The counsel for the appellants, who presents this brief, was of counsel in the case of the Francis Wright, although he took no part in the argument of the cause here. The appeal in the case at bar was taken subsequently to that of the Francis Wright, and knowing that the question of the constitutionality of the Act of 16th February, 1875, would be raised in the case of the Francis Wright the counsel for appellants in this cause advised, as they think they were justified in doing in good faith to this court and their clients, that the appeal in the case at bar, should await the decision in the case of the Francis Wright. That case, having been determined, determines this.

Evidence of the good faith of the counsel for the appellants, resident at New Orleans, and who argued the cause in both the District and Circuit Courts, is manifested by his affidavit, which has been filed and a copy of which is annexed to this brief. See Exhibit A.

Under these circumstances, how can it be said that this appeal is a frivolous one?

We could give the strongest additional evidence to the court that this appeal is not frivolous, if we were allowed to review the testimony.

It is manifest that this court will not award damages unless it clearly appears that the appeal is frivolous. In *Whitney* vs. *Cook*, 99 *U. S.*, 607, this court declared that there-

after more attention would be given to the subject, but no case can be cited to show that this court has since exercised the power to award such damages under the 23d rule.

According to that rule it must appear to the satisfaction of this court that the appeal has been sued out merely for delay. Nothing in the brief of the appellees gives the court information or any satisfactory reason, showing that this appeal is frivolous.

It may be contended, as the point is taken in appellees' brief, that there is no bill of exceptions in the record, and therefore the appeal is frivolous, and damages should be awarded.

But this omission of counsel, if it is such, should not be allowed to prejudice the appellants under a reasonable construction of Rule 23. Besides, at the time this appeal was filed there was no settled practice nor decision as to what would be considered by this court a proper bill of exceptions under the Act of 16th February, 1875, which provides for a bill of exceptions in a proceeding in equity prepared as in actions at law. This act was perplexing. It engrafted upon a suit in equity a practice known only in actions at law. And it was not until the case of the Francis Wright that this court decided what a bill of exceptions under this act should contain.

Moreover, for the want of a bill of exceptions it was in the power of the appellees to prevent any "delay in the proceedings on the judgment of the inferior court" (Sec. 2, Rule 23) by a motion under Rule 6 to dismiss the appeal and affirm the decree at any session of the court since the record in this case was filed on October 11, 1879. The appellees not having done so, cannot now complain of loss occasioned by their own neglect. Besides, they assert loss by reason of the delay, but the record does not show it.

Justice between these parties requires that the decree should be affirmed without allowing the additional damages claimed.

J. WARREN COULSTON,
Counsel for Appellants.

"EXHIBIT A."

SUPREME COURT OF THE UNITED STATES.

No. 314.

THE SHIP STERLING E. & A. SEWALL *et al.*, OWNERS AND THE TUG-BOAT EQUATOR, S. & J. M. FLANAGAN *et al.*,

Appellants.

vs.

R. M. PETERSEN *et al.*

UNITED STATES OF AMERICA,
EASTERN DISTRICT OF PENNSYLVANIA, } *ss.*

EMMET D. CRAIG, being duly sworn, doth despose and say: That he resides at 37 Carondelet Street, City of New Orleans; that he is fifty-three years of age, and is a member of the New Orleans bar, and was the Proctor and Advocate of the steam tug "Equator" and the ship "Sterling," and their respective owners in the above cause in the United States District and Circuit Courts for the District of Louisiana (now the Eastern District of Louisiana). That he is thoroughly familiar with the testimony taken in the cause *pro* and *con*. That he argued the cause on behalf of the said appellants in both the District and Circuit Courts. That he advised the appeal to this court not for the purpose of delay, but truly and conscientiously, because he believed then as he does now, that the record so far as the testimony is concerned, shows that the decree of the Circuit Court should be reversed. That his judgment and opinion as to the merits of this cause remain unchanged, but as the law is definitively settled by the Supreme Court by its several decisions, "that the

finding of facts in admiralty causes is conclusive," and by the decision recently in the "Francis Wright" that the Act of February 16, 1875, is constitutional, he has concluded, and so advised that the argument of the appeal upon every other question except the question of damages as for a frivolous appeal should be abandoned.

EMMET D. CRAIG.

Sworn and subscribed to before me, this seventh day of September, A. D. 1882.

[SEAL.] SAMUEL BELL,
U. S. Commissioner.

LAW DEPARTMENT,
TIMES PRINTING HOUSE,
725 CHESTNUT STREET,
PHILADELPHIA.

OFFICE SUPREME COURT U. S.
FILED
OCT 17 1882
JAMES H. McKENNEY, Clerk.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1882.

THE SHIP "STERLING,"
E. & A. SEWALL *et als.*, Owners,
APPELLANTS,

vs.

R. M. PETERSEN *et als.*

No. 49.

Brief by W. L. Putnam, for Owners of Ship Sterling.

I.

We understand that any claim for damages by appeal is disposed of by *The Douro*, 3 Wall., 564, and *Hemenway* vs. *Fisher*, 20 How., 255.

II.

We ask that the decree should be corrected to conform to *The Washington and The Teleyraph*, 9 Wall., 513, approved in many subsequent cases; and that as both the Equator and the Sterling are found in fault, the decree should be against the Sterling for only half the damages in the first instance.

WM. L. PUTNAM,
For Owners of "The Sterling."

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SUPREME COURT OF THE UNITED STATES.

No. 314.

THE SHIP STERLING, E & A. SEWALL, ET ALS., OWNERS, AND THE TOWBOAT EQUATOR, S. & J. M. FLANAGAN, ET ALS., APPELLANTS,

versus

R. M. PETERSON, ET AL.

Appeal from the United States Circuit Court for the District of Louisiana.

BRIEF FOR APPELLEES.

JOSEPH P. HORNOR,
WILLIAM S. BENEDICT,
Of Counsel for Appellees.

L. GRAHAM & SON, BRIEF PRINTERS, 127 GRAVIER ST.

SUPREME COURT OF THE UNITED STATES.

No. 314.

THE SHIP STERLING, E &. A. SEWALL, ET ALS., OWNERS, AND THE TOWBOAT EQUATOR, S. & J. M. FLANAGAN, ET ALS., APPELLANTS,

versus

R. M. PETERSON, ET AL.

Appeal from the United States Circuit Court for the District of Louisiana.

BRIEF FOR APPELLEES.

This was a libel *in rem* for damages sustained by the bark Sif in a collision with the ship Sterling and the tow boat Equator, and the following facts were found by the Court :

" 1. That about twelve o'clock noon, of the 15th of March, 1874, the Norwegian bark Sif, of which the libellants were owners, drawing fourteen feet and three-quarters of a foot of water, attempted to cross the bar at the mouth of the Southwest Pass of the Mississippi River, and while so attempting ran aground

there and lay athwart the channel, thereby partly obstructing it, her bow pointing westwardly.

"2. While thus aground the tow boats Lone Star and Philip hitched onto the stern of the Sif with a hawser, and tried to pull her off the bar by towing her stern up stream.

"3. That while the Sif was still aground on the bar, and the said towboats Lone Star and Philip were working to pull her off, but had not yet succeeded in so doing, the ship Sterling, one of the defendants, drawing twelve feet and one-half foot of water, which had been lying at anchor outside the bar, waiting to cross it, weighed anchor, and in tow of the tow-boat Equator, the other defendant, drawing twelve feet of water, attempted to cross the bar by passing near to and around the stern of the Sif.

"4. That the tow boat Equator succeeded in passing the bark Sif, without colliding with her, still having the ship Sterling in tow, but that the bow of the ship Sterling, she being still in tow of the tow boat Equator, ran into the Sif on her port side, nearly at right angles, thereby causing considerable damage to the Sif.

"5. That the attempt of the ship Sterling and of the tow boat Equator, the latter having the former in tow, to cross the bar, and pass under the stern of the Sif while the latter was lying aground on the bar, was reckless, inconsiderate and hazardous, and due care and seamanship required that the attempt should not be made.

"6. That the damage to the Sif from the said collision was caused solely by the reckless, inconsiderate and

hazardous conduct of those in charge of the ship Sterling and the tow boat Equator, in making the attempt to cross the bar, while the Sif was lying aground thereon, partly obstructing the channel.

"7. That the damage sustained by the ship Sif, in consequence of said collision, was $8,265 35.

"And, as a conclusion of law, from the foregoing facts, the Court finds that the said ship Sterling and the said tow boat Equator are liable *in solido* to the libellants, the owners of the bark Sif, for the said sum of $8,265 35, the damages aforesaid, with interest at five per cent. from judicial demand."

See the decree of the Circuit Court, Record, pp. 168-169.

The Act of February 16, 1875 (18 Stat. 315), limits the review, by this Court, of the judgments and decrees on the instance side of Courts of Admiralty and maritime jurisdiction to the questions of law arising on the record, and to such rulings of the Court below excepted to at the time, as may be presented by a bill of exceptions, and requires the Court below to find the facts. Under repeated decisions of this Court the facts as found are conclusive upon it.

The Abbotsford, 98 U. S. 440.
The Benefactor, 102 U. S. 214.
The Adriatic, 103 U. S. 730.

There is no bill of exceptions in the record. On pp. 157 to 159 there is found what purports to be one, but it was *refused,* as appears by the endorsement upon it (p. 159.) Moreover that exception purported to be taken on the 19th May, 1877, to the findings and decree of the Court, filed on the 17th May, 1877; but

a re-hearing was granted on the 25th June, 1877, and that decree was thus annulled, and the exception, if it had been allowed, would have fallen with the decree; new evidence was adduced (p. 163), and a new trial was had on the 18th January, 1878 (p 168), and the final decree, from which this appeal was taken, was rendered on the 12th March, 1879, and no exceptions were taken to it.

The only question of law, therefore, that is presented, is that conclusion of Court upon the facts found (p. 169), that the claimants were liable, and it is impossible that there should be any question of its correctness.

It is thus manifest that this appeal was taken simply for delay, and libellants have been kept out of their money for more than three years, and we pray, therefore, that we may have damages as for a frivolous appeal, under the second section of Rule 23, and in accordance with the declaration made by your Honors in Whitney versus Cook, 99 U. S. 607. "Parties should not be subjected to the delay of proceedings for review in this Court without reasonable cause, and our power to make compensation to some extent for the loss occasioned by an unwarranted delay, ought not to be overlooked."

All of which is respectfully submitted,

JOSEPH P. HORNOR,
WILLIAM S. BENEDICT,
Of Counsel for Appellees.

NEW ORLEANS, March 18, 1882.